

The Lawsuit Motif in John's Gospel from New Perspectives

Jesus Christ, Crucified Criminal
and Emperor of the World

Per Jarle Bekken

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The Lawsuit Motif in John's Gospel from New Perspectives

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*Jesus Christ, Crucified Criminal
and Emperor of the World*

By

Per Jarle Bekken



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To Magritt



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Per Jarle Bekken

Bodø and Knapstad, June 2014

Abbreviations

Abbreviations follow the rules according to *SBL Handbook of Style: For Ancient Near Eastern Studies, Biblical, and Early Christian Studies* (eds. Alexander, P.H. et al.), Peabody: Hendrickson, 1999.

Abbreviations for papyrological editions and publications have been taken from J.F. Oates, R.S. Bagnall, S.J. Clackson, A.A. O'Brien, J.D. Sosin, T.G. Wilfong, and K.A. Worp, *Checklist of Greek, Latin, Demotic and Coptic Papyri, Ostraca and Tablets*, <http://scriptorium.lib.duke.edu/papyrus/texts/clist.html>, April, 2014. Critical work on papyri as recorded in the various volumes of the *Berichtungsliste der griechischen Papyrusurkunden aus Ägypten* (1913–) is indicated with the letters *BL*.

The Philonic works are abbreviated according to the guidelines set out in *SPhilo* 25 (2013): 255–256, in the following way:

<i>Abr.</i>	<i>De Abrahamo</i>
<i>Aet.</i>	<i>De Aeternitate Mundi</i>
<i>Agr.</i>	<i>De Agricultura</i>
<i>Anim.</i>	<i>De Animalibus</i>
<i>Cher.</i>	<i>De Cherubim</i>
<i>Conf.</i>	<i>De Confusione Linguarum</i>
<i>Congr.</i>	<i>De Congressu Quaerendae Eruditionis Gratia</i>
<i>Contempl.</i>	<i>De Vita Contemplativa</i>
<i>Decal.</i>	<i>De Decalogo</i>
<i>Deo</i>	<i>De Deo</i>
<i>Det.</i>	<i>Quod Deterius Potiori Insidiari Solet</i>
<i>Deus</i>	<i>Quod Deus Immutabilis Sit</i>
<i>Ebr.</i>	<i>De Ebrietate</i>
<i>Flacc.</i>	<i>In Flaccum</i>
<i>Fug.</i>	<i>De Fuga et Inventionem</i>
<i>Gig.</i>	<i>De Gigantibus</i>
<i>Her.</i>	<i>Quis Rerum Divinarum Heres Sit</i>
<i>Hypoth.</i>	<i>Hypothetica (Apologia pro Iudaeis)</i>
<i>Ios.</i>	<i>De Iosepho</i>
<i>Leg. 1–3</i>	<i>Legum Allegoriae I, II, III</i>
<i>Legat.</i>	<i>Legatio ad Gaium</i>
<i>Migr.</i>	<i>De Migratione Abrahami</i>
<i>Mos. 1–2</i>	<i>De Vita Mosis I, II</i>
<i>Mut.</i>	<i>De Mutatione Nominum</i>

<i>Opif.</i>	<i>De Opificio Mundi</i>
<i>Plant.</i>	<i>De Plantatione</i>
<i>Post.</i>	<i>De Posteritate Caini</i>
<i>Praem.</i>	<i>De Praemiis et Poenis, De Exsecrationibus</i>
<i>Prob.</i>	<i>Quod Omnis Probus Liber Sit</i>
<i>Prov.</i>	<i>De Providentia</i>
<i>QE</i>	<i>Quaestiones et Solutiones in Exodum</i> I, II
<i>QG 1–4</i>	<i>Quaestiones et Solutiones in Genesim</i> I, II, III, IV
<i>QGE</i>	Questions and Answers on Genesis and Exodus
<i>Sacr.</i>	<i>De Sacrificiis Abelis et Caini</i>
<i>Somn. 1–2</i>	<i>De Somniis</i> I, II
<i>Spec. 1–4</i>	<i>De Specialibus Legibus</i> I, II, III, IV
<i>Virt.</i>	<i>De Virtutibus</i>

The biblical quotations are taken from NRSV, except from the translations of LXX, which are taken from NETS. Texts from the Apocrypha and Pseudepigrapha are quoted from *OTP*, or if not found there, from *APOT*. References to *Greek and Latin texts* are given on the basis of the editions found in *Loeb Classical Library*. Otherwise, the text indicates the sources of the quotations.

Introduction

1 The Lawsuit Motif in John's Gospel from New Perspectives

The title of this book, *"The Lawsuit Motif in John's Gospel from New Perspectives"*, is deliberately meant to be ambiguous. On the one hand, it refers to the purpose of the gospel of John in rewriting the so-called 'trial' of Jesus from a new perspective. On the other hand, it communicates the aim of the present study: to shed new light on the Johannine lawsuit motif from the background of Diaspora-Jewish and Greco-Roman data, which either have been passed over or should be brought more into the scholarly discussion. To begin with, I shall sketch my overarching view with regard to the first issue, and state how I conceive John recasts the lawsuit against Jesus to become an inherent part of the gospel.

In the first place, John's new perspective on the proceedings against Jesus bears on the composition of gospel. As I shall point out in more detail below, the story-line of the Johannine lawsuit motif shows that there is an interplay between the charges against Jesus and the legal procedures that eventually brought him to be crucified as a criminal. M. Kähler's famous description of the gospel of Mark as a "Passionsgeschichte mit ausführlicher Einleitung"¹ might contain an element of truth, indeed so much so, that it is perhaps more suitable to John.² Thus, in John's case, there is a compositional and integrated relation between the accusations brought against Jesus during his ministry and the trial and execution before the Roman governor, which conveys features of a 'crimes-legal proceedings-execution'-report, with analogies to be found in Jewish historiographical writings as well as in other Greek and Latin texts from the Greco-Roman time.³ However, how could we imagine that John has turned such an account of the charges, legal procedure and execution of Jesus into a gospel? A clue to an answer lies in the way John distinguishes between the opposition, leading to the downfall of Jesus, and his aftermath, which is echoed

1 Kähler 1969, 60.

2 Cf. Frey: "Das Johannesevangelium ist daher noch in höherem Maße ein 'Passionsevangelium' bzw. eine 'Passionsgeschichte mit ausführlicher Einleitung' als das Markusevangelium, für das immer wieder eine solche Charakterisierung vorgeschlagen wurde" (2013, 508–509).

3 Cf. Collins 1993, 29–47; Borgen 2007, 57–58.

in the way the followers of Jesus expressed their faith and made profound claims about the executed criminal.⁴ It is my assumption that these two lines of opposition and adherence, explicating both the downfall and the aftermath of Jesus, converge in John so as to become a gospel. Thus, the integral relationship between the crimes Jesus was charged for, the legal measures taken, and his execution as a crucified criminal was remoulded and explicated in a positive way, in order to become an *apologia* for the scandal of the cross and at the same time a bold gospel about Jesus. The challenge of Jesus as a crucified criminal and pretender king was then not only overcome, but also reinterpreted as the exaltation of Jesus as Christ, signifying the realization of the future hopes of the Jewish nation.

In the second place, this perspective takes into account the circumstance that, at the same time as the preaching of the gospel of Jesus, a counter-message was also being spread abroad, in which Jesus' activities and teaching were conceived as crimes for which he was charged and executed by the Roman punishment of crucifixion. With regard to the pragmatic concern of the gospel, the disputed question raised in the community of the first readers of John might have been as follows: Since Jesus was accused of being a criminal by the Jews and executed as a political king-pretender by the Roman governor, were they right? The response provided by John, which carries both an apologetic and a polemic function, is an effort to answer this question from new forensic perspectives. It is as if John, like an advocate, re-opens the case of Jesus, drawing on new evidence provided by divine testimonies and the legal precedents of the Law, which are appropriate in order to plead for a new assessment of the case.⁵ In the light of this perspective, it is reasonable that John applied the forensic terminology of a 'testimony' to claim authority for his book and thus emphasize the juridical aspect of his 'biography' of Jesus: "This is the disciple who is testifying to these things and has written them, and we know that his testimony is true" (John 21:24).⁶

The preceding paragraphs do not represent anything new, but the remainder chapters of this study intends to advance Johannine scholarship on some of the aspects involved in this overarching perspective. In order to prepare for

4 Cf. for example, how Thomas, when he encountered the risen Christ and saw the marks of the crucified criminal, then exclaimed: "My Lord and my God" (John 20:28). So, the confession of Thomas expressed faith in Jesus, who despite the fact that he was executed on the cross as blasphemer, came from God and was divine.

5 So, e.g., Dahl 1997; Parsenios 2010.

6 For John's use of the terminology of 'testimony' as a way to claim authority for his book, see Menken 2013, 186–202, esp. 199–201.

the specific approach of this investigation, I now give a brief survey of recent scholarship on the forensic character of John's gospel.

2 A Brief Survey of the Lawsuit Motif in Recent Scholarship

The forensic character of John has for long been recognized by scholars. The judicial aspects comes to expression linguistically through words that carry legal significance, such as 'testimony' (μαρτυρία), 'judgment' (κρίσις), 'conviction' (κατηγορία), and many other forensic cognates. In recent studies of the forensic character of the Gospel of John, however, the lawsuit motif has been studied not only in terms of linguistic aspects, but also from various angles of historical, literary, and theological issues.⁷ These three approaches correspond mainly to the three major parts of my investigation, viz. 1) The Jewish and Roman 'Trial', 2) The Johannine Lawsuit Motif in the Light of the Divine Realm and Jurisdiction, 3) The Theme of Jesus' Kingship in Negotiation with Jewish Hopes and the Roman Empire. In the light of the vast amount of literature, I shall briefly survey some of the most important studies which have set the agenda for the present study, and which will be interacted with throughout the following chapters.

As for the *historical* traditions behind the Johannine legal proceedings against Jesus, scholars have searched for evidence within the cultural context of Jewish and Roman legal procedures. So, for example, A.E. Harvey argues that there is no reason to doubt that Jesus was involved in controversies of the kind John recounts. Thus, he finds that the Johannine account of an extended Jewish trial throughout the ministry of Jesus is plausible because of its affinities with Jewish legal procedures evidenced in the Mishnah.⁸

A.T. Lincoln and M. Asiedu-Peprah have recently objected to Harvey's hypothesis. Lincoln maintains that the evidence for our knowledge of these procedures is from a much later date.⁹ Likewise, Asiedu-Peprah rejects Harvey's assertion that the Johannine conflict narratives might be situated within the framework of conventional judicial proceedings, since there is no documentation to substantiate such a claim.¹⁰ Thus, these scholars have focused more on literary models in the Old Testament legislation to explain the legal proceedings involved in John.

⁷ For a survey of recent research, see Parsenios 2010, 34–36.

⁸ Harvey 1976, 46–48.

⁹ Lincoln 2000, 308.

¹⁰ Asiedu-Peprah 2001, 22, n. 51.

Like Harvey, however, J.L. Martyn's reconstruction of what he calls a two-level drama pays attention to the historical aspects of forensic prosecution of both Jesus and the Johannine community on the part of the leaders of the Jewish people. Martyn finds the link between these two levels finds in legal procedures attested in Jewish and Christian data from the late first and second centuries, according to which one who leads people astray to worship a god alongside God is subject to legal process.¹¹

With regard to the way the lawsuit motif has influenced the *literary* composition of John, we should mention the studies by A.T. Lincoln and G.L. Parsenios. In Lincoln's view, the lawsuit motif is the conceptual framework that drives the plot forward and provides the structure of the narrative discourse of John.¹² In his view, the divine lawsuit motif in Isaiah 40–55 was the model and genre of the lawsuit motif of the gospel. The overall purpose of the reversal and irony in the trial scenes in the Johannine account is then to encourage the reader to take the side of Jesus against his adversaries. Lincoln has emphasized the Gospel as a “two-storey story”, according to which the implied readers survey the narrative with knowledge of the outcome, which they share with Jesus and the author, but which the other participants in the story, and in particular the main adversaries of Jesus, do not share. In Lincoln's view, the motifs of appearance and reality play a prominent place in the narrative:

The levels of appearance and reality, of human standards and divine standards, are the “above” and “below,” the two storeys of the narrative. [...]

Knowing that Jesus is part of the lawsuit from above, God's lawsuit with the world, is what enables readers to see the trials of Jesus before Israel and before Pilate in their true light and to appreciate their ironies.¹³

Like Lincoln, Parsenios views the trial scenes in the Johannine account within the rhetoric of reversal and irony supplied by the drama of Greek texts, which might help us to see the dimensions of the forensic character of John in a new way. More specifically, inspired by E.J. Bickerman's study of the judicial proceeding of “seeking” (ζητήσις) in John in the light of Egyptian papyri,¹⁴

¹¹ Martyn 2003, 76–83.

¹² Lincoln 2000, 33–35.

¹³ Lincoln 2000, 33–34.

¹⁴ Bickerman 2007 (1935), 726–793.

Parsenios suggests that the rhetoric of the Greek drama *Oedipus Rex* provides a model for how the forensic process of investigation is dramatized in John.¹⁵

The *theological* connotations of the lawsuit motif in John have been approached by means of discussions over a wide range of concerns in Johannine research, such as e.g. God's relation to the world, Scripture and Law, Christology and eschatology. Scholars such as T. Preiss, N.A. Dahl, and S. Pancaro reached the conclusion that the Law and judicial principles play a central role in John.¹⁶ For example, Dahl conceives the Johannine concept of history as both Christocentric and forensic within the framework of a cosmic lawsuit with the world, in which Christ is the representative of God, while the Jews represent the world: "In their pleading, the Jews base their arguments upon the law, and Jesus appeals to the witness borne to him by John the Baptist, by his own works, and by the Scriptures, and refers also to precedents in Old Testament history."¹⁷ Similarly, S. Pancaro, acknowledged the opposite meanings ascribed to the Law in the trial of Jesus, both as a norm used against Jesus and as a testimony against the Jews and in favor of Jesus. Against this background, Pancaro suggested that the theological structure in John was designed to refute the accusations that lead to Jesus' execution. e.g., by the way John calls upon witnesses and precedents of the Law.¹⁸ Thus, in the view of the Jews, the Law demands the conviction and execution of Jesus: "We have a Law and by that Law he ought to die, because he has made himself the Son of God" (John 19:7). The view represented by John, however, provides a contrary perspective, viz. that Moses wrote of him (John 1:45; 5:40, 45) and that the Scriptures and the Law testify to Jesus.

The aspects of Christology and eschatology have been seen in Johannine scholarship within the context of a legal reversal that operates on the two levels of appearance and reality throughout the entire Gospel of John. Thus, scholars have held that the difference between these levels is at play in John's reversal of the lawsuit, and comes to expression at the trial before Pilate, where it is then explicated by the means of the concepts of Jesus as Judge and King. On the level of appearance, Jesus is the defendant, who is charged by the Jews as prosecutors, while Pilate operates as Judge. In the world of reality, however, the actions and roles are turned around. The accusations against Jesus were in fact expressions of what was really going on, so that the Jews and Pilate became the defendants on 'trial' before Jesus. On the reversal of the judgement, I. de

15 Parsenios 2010, 58–64; 132–133.

16 Preiss 1951; Dahl 1997.

17 Dahl 1997, 161.

18 Pancaro 1975, 7–8.

La Potterie writes as follows: “On the human level Jesus is the accused, the one condemned by men; but on the symbolic level, on the religious plane of the history of salvation, it is in fact Jesus who judges men.”¹⁹

The royal imagery of a king ascribed to Jesus in the judicial setting before Pilate has also been emphasized by J. Blank and W.A. Meeks, who regard Jesus’ being placed on the judgement seat of the governor as Jesus’ enthronement as King.²⁰ In this way, the kingship of Jesus is interpreted in a legal framework, in which the roles of Pilate and Jesus are reversed: Jesus is seated on the $\beta\eta\mu\alpha$ of the Roman Empire as the true king and judge. This observation indicates that the theme of Jesus’ kingship is played out against a background of legal and political implications. Thus, scholars have emphasized that Jesus’ account before the Roman governor of his kingship as “not of this world” does not render Jesus’ kingship “unworldly”.²¹ Rather, the ‘trial’ before Pilate suggests that “its structures and strategies may be different, but such a difference offers a profound and thoroughly political challenge to existing power.”²² Hence, the rejection by the high priest of Jesus as a pretender-king and of any king but Caesar suggests that the Johannine motif of Jesus’ kingship is confrontational:

The Fourth Gospel thus confronts the issue of Israel’s freedom in the late first-century Roman Empire with an alternative to both Zealotry and collaboration, by calling for adherence to the king who is not of this world, whose servants do not fight, but remain in the world bearing witness to the truth before the rulers of both synagogue and Empire.²³

In Johannine research, scholars have elaborated upon these aspects of John’s negotiation with the Jewish messianic hopes and the Roman empire, in which the religious and political aspects of the events that led up to the ‘trial’ before Pilate were inextricably merged, and concerned the political implications of the gospel.²⁴ So, e.g., Meeks suggested that the negotiation of Jesus as a rival king to Caesar represented a challenge to the first readers of John “to decide vis-à-vis the Empire whether Jesus is his king or whether Caesar is”.²⁵ Further, S. van Tilborg has argued that John’s account of the ‘trial’ before Pilate might

¹⁹ de La Potterie 1961, 108.

²⁰ Blank 1964, 186–198; Meeks 1967, 61–81.

²¹ So, e.g., Meeks 1967, 64; Rensberger 1984, 395–411; Bond 1998, 192–193; Lieu 2007, 104–106.

²² Lieu 2007, 105.

²³ Rensberger 1984, 411.

²⁴ Cf., e.g., Meeks 1967; Rensberger 1988; van Tilborg 1996; Carter 2008.

²⁵ Meeks 1967, 64; Bond 1998, 192–193.

be read “as a story of an enthronement in which Jesus is made a king by the soldiers, by Pilate and the by the people: Jesus is made the king of Israel and against the background of the competition with the Roman emperor he is preferred.”²⁶ Moreover, when the Jews before Pilate reject Jesus as a pretender-king with messianic aspirations, and demand his execution, they “not only renounce their messianic hopes but unconditionally accept the sovereignty of Caesar.”²⁷

3 Approach and Course of the Study

What justifies another look at the lawsuit motif in John? The present study aims to advance scholarship by drawing on sources from the Diaspora Judaism and the Greco-Roman culture that have either been neglected or been incompletely applied so far in Johannine scholarship. Thus, some distinct features of the historical, literary and theological approaches surveyed above might be seen from new perspectives through the lens of such data. In what follows, I shall give a brief overview of the specific topics that would bring these perspectives and sources to bear on the lawsuit motif in John.

3.1 *The Jewish and Roman ‘Trial’*

A brief survey of the Jewish and Roman ‘trial’ motif brings Lincoln to speak about two trials in John, viz. “the trials of Jesus before Israel and before Pilate.”²⁸

Firstly, according to a common view among scholars, the series of judicial exchanges between Jesus and his opponents in John 5–10 acquires a setting like a Jewish ‘trial’, in which Jesus is charged as a criminal and is threatened with death.²⁹ Thus, the narrator’s comment that ‘Jews’ sought to kill him (ἐζήτουν αὐτὸν οἱ Ἰουδαῖοι ἀποκτείνειν) in 5:18 is picked up again in 7:1 and then elaborated throughout the chapters 7–10. Two kinds of reactions on the part of the Jewish community are seen in John 5–10: Either the extra-legal measure of vigilante execution on the spot (8:59; 10:31; cf. 11:8) or a regular legal process, in which the accused criminal is subject to arrest, trial, and execution (7:32, 45, 51). Secondly, in John 11 we read that the high priest had convened a council (‘Sanhedrin’) and made a plot to arrest and put Jesus to death (11:45–57). Thirdly, the decision made by the High priest to have Jesus killed reaches its climax in

²⁶ van Tilborg 1996, 213.

²⁷ Bond 1998, 193.

²⁸ Lincoln 2000, 34.

²⁹ Harvey 1976; Lincoln 2000; Neyrey 2009, 191–226.

the so-called ‘passion narrative’ and the Roman ‘trial’.³⁰ However, unlike the synoptic gospels, John skips the trial before the ‘Sanhedrin’, has an interrogation before Annas (18:13–24), and subsequently makes a referral of the case of Jesus to the Roman governor, who in turn initiates a new procedure that leads to his Roman execution (18:28–19:22).

In Lincoln’s view, the entire composition of Jesus’ public ministry, in terms of a number of Jewish “mini-trials” before the main trial before Pilate, creates a problem for the storyline, and requires a somewhat artificial solution, which John provides by the many references to the elusiveness of Jesus, which enables him to escape his opponents. However, nearly eighty years ago, Bickerman suggested that ancient readers, who were familiar with the procedure of the Greco-Roman administration, would have understood the judicial significance of the escape scenes.³¹ These scenes in John might then be situated within the framework of the “seeking” of the whereabouts of a fugitive in terms of a legal investigation. As we noted above, Parsenius pursued this idea and showed that the evidence from legal rhetorical and tragic drama illuminates the deployment of this legal device. Hence, Parsenius objects to Lincoln’s way of conceiving the trial motif in John. Since to speak of a ‘trial’ presupposes a single event that is confined to a particular time and space, and the so-called trial before Israel takes place over a period of time and in different episodes, Parsenius argues that the proceeding before Pilate in John 18–19 is *the only trial* in John, while the pursuit of Jesus before the leaders of Israel should be conceived as conducting a legal “investigation” (ζήτησις), collecting information that could be brought to this trial.³²

With regard to the Roman context of the proceeding in John, the Roman historian F. Millar has argued that the notion of “the trial of Jesus” is a modern construct, because there is a lack of evidence for formal features of a Roman trial, such as witnesses, legal advisers, and a formal verdict on the part of Pilate. Instead, John depicts Jesus’ execution as a result of a political decision, which would have accorded well with the political situation and the relationship recounted in John between the Jewish authorities and the Roman governor. Millar finds that Philo’s *Against Flaccus* “happens to provide a precisely contemporary analysis of the susceptibility to such pressure of a Roman governor who feels himself to be out of favour with the Emperor.”³³ J. van der Watt comes

30 Cf. Knöppler 1994, 184–200.

31 Bickerman 2007, 766–768.

32 See most recently Myers (2013, 415–430, esp. pp. 425–426), who finds Parsenius’ suggestion helpful to comprehend the sequence of events in John.

33 Millar 1990, 379.

close to a similar assessment, when he affirms: “Pilate allowed Jesus to be crucified, not on the basis of his findings (which indicate that Jesus is not guilty—18:38; 19:4), but on the basis of fear for the Jews who might bring his friendship with Caesar in disrepute (19:12–13).”³⁴

The present study aims to advance beyond the positions of these scholars and to nuance the discussion of the ‘Jewish and Roman trials’ in John. I shall take as my point of departure the elements of a ‘crimes—proceedings—execution’—report that emerges in John’s narrative. If we put together the components of criminal charges brought against Jesus and the proceedings of the extra-legal and legal measures that are taken, we find the following report:

Report of the crimes: Jesus was

- a violator of the Sabbath (5:1–18)
- a blasphemer (5:17–18).
- a false teacher who leads the people astray (7:12, 45–49).
- a blasphemer (8:58).
- a violator of the Sabbath—“a criminal” (chap. 9, esp. 9:14–16, 24).
- a blasphemer (10:24–38).
- a threat to the Jewish nation as a messianic usurper (11:47–53).

Report of the extra-legal proceedings and execution: Jesus was subjected to

- attempts to kill him (5:18; 7:1, 19, 25; 8:22, 37, 40)
- vigilante execution on the spot (8:59, 10:31; 11:8)

Report of the legal proceedings and execution: Jesus was subjected to

- efforts to have him seized (7:30, 32; 45; 10:39)
- a legal plot to have him killed (11:53)
- order of arrest and investigation as for a fugitive criminal (11:57; 18:4, 7–8)
- denouncing of his whereabouts (18:2–3)
- arrest (18:12)
- hearing before the Jewish high priest (18:19–24)
- accusation of being a false teacher who led the people astray (18:19–24).
- referral of the case to the Roman governor (18:28)
- hearing before the Roman prefect (18:29–19:12)

34 van der Watt 2000, 389.

- accusations of being a criminal (18:30)
- accusations of being a blasphemer (19:7)
- accusations of making himself a “king” (18:33, 37; 19:21)
- sentence and execution by crucifixion (19:13–16a).

Against the background of this survey, *part one* of this study will argue that the tension and interplay between the Jewish and Roman jurisdictions represent an underlying concern that bears on the composition of the extra-legal and legal proceedings against Jesus in John. In *chapter two*, I shall maintain that the episodes of the single events, in which the Jews are ready to take steps to kill Jesus, might amount to the reactions of *either* an informal vigilante execution on the spot, *or*, when the circumstance called for it, an official procedure, in which a criminal is legally arrested, tried, and, if found guilty, executed. The alternatives of such legal reactions against non-conformity to the Law have an analogy in John’s cultural context provided by the proceedings attested in Philo, *Mos.* 2:214–218. Moreover, the attempts to stone Jesus should be considered from the perspective of vigilante execution on the spot, which the Jews regarded as an extra-legal measure appropriate in situations in which a more regular proceeding was prohibited and thus could not be carried out. We might imagine such a proceeding of vigilante prosecution either when the Jewish Law was in conflict with the Roman jurisdiction or when the Romans exercised a sort of negligent tolerance of local practice, so long as it would not disturb and endanger the order of the Roman government.³⁵ I shall argue that the narratives in John of the attempts on Jesus’ life for such crimes as breaking the Sabbath, blasphemy, and seduction have some verisimilitude in such a cultural context provided Philo’s writings on vigilante execution (*Mos.* 2:214–218; *Spec.* 1:54–57; *Spec.* 1:315–318).

As for the so-called ‘trial’ before Pilate, I concur with Millar that it might be conceived as a modern construct. We should, perhaps, therefore not speak about a Jewish investigation that leads to the ‘trial’ before Pilate. Rather, we should consider the interaction of Jewish and Roman proceedings, leading to the execution of Jesus, as the result of a political resolution, which suits well with the legal collaboration and negotiation recounted in John between the municipal Jewish magistrates and the provincial administration represented

35 Cf. Bryn 2013, 142: “[...] the state can recognize and legitimate different practices, allowing them to stand as semi-autonomous systems of jurisdiction. The Romans did this in Judaea, for example, by allowing the Sanhedrin to regulate itself in certain matters relating to religion [...]”

by the Roman governor. More attention should be given to the juridical fact that the subjects of a Roman province, and *a fortiori* the Jewish Sanhedrin itself, could hand over any case to the Roman jurisdiction. Specifically, in a legal case with political implications, such as when a seditious person endangered the order of both the Jewish nation and the Roman government, the individual was supposed to be handed over to the Romans, who would decide whether a death sentence was to be pronounced and carried out. In *chapter three*, I shall maintain that the political conspiracy against Jesus on the part of the Jewish magistrates in John is worked out through the legal machinery of the Greco-Roman procedure. Such a perspective might be supported by reading the legal report of John through the lens of the Greco-Roman proceedings, e.g. as reflected in the Roman-Egyptian protocols. While space does not permit an exhaustive papyrological study, I shall apply the legal protocol provided by *P.Oslo* II 17 as a unique sample that might highlight features of the policing and judicial proceedings attested elsewhere in the Roman empire, including the Johannine account of the official Jewish and Roman proceedings against Jesus. Such cross-references lead to the conclusion that the legal proceedings reported by John might be situated within the framework of the provincial legal procedures of the Greco-Roman administration.

3.2 *The Johannine Lawsuit Motif in the Light of the Divine Realm and Jurisdiction*

Part two and the next two chapters will deal with aspects of the lawsuit against Jesus from the perspective of the divine realm and jurisdiction. As I have said above, the Gospel of John displays a two-level drama, which differs from the often-claimed drama of Jesus of the 20–30s and the Johannine community of the 90s, viz. the earthly drama of the story of Jesus on the level of appearance, and the cosmological drama on the divine level of reality.³⁶ The earthly drama concerns the narrative of Jesus, who first appears as an adult, gathers followers, who is charged for criminal offences, who dies as a criminal, and finally as risen appears to his disciples. Alongside this story there is a cosmological and divine narrative of the Son, who is sent by the heavenly Father, who descends from heaven to accomplish the mission of the one who sent him, and who returns to heaven and his Father. The intersecting of these two dramas becomes apparent in Jesus' conflicts with his interlocutors. Thus, for example, P. Borgen has suggested that structural and forensic studies of the Fourth Gospel "should pay more attention to theological movements between the

36 See Thompson 2001, 57–100; Lieu 2008, 168–182, esp. 175–178.

earthly and heavenly levels when Johannine stories about misunderstanding and conflict are analysed.”³⁷ Within the structure of the Fourth Gospel, the forensic and human and divine aspects involved in such controversies might be explained and used in favour of the gospel about Jesus.

In *chapter four*, I shall establish a Jewish cultural context for the debate on valid testimony reflected in John 5:31–40 and 8:12–20. Thus, Philonic data (*Leg.* 3:205–208), neglected by the interpreters of John, supply documentation for the view that the controversy on self-testimony in John 5:31–40 and 8:12–20 is a specifically ‘Christian’ version of a discussion which most probably also existed among Jews in Alexandria. Philo gives us a glimpse of the Jewish discussion of the prohibition of a single testimony, and the problem that arises when it is applied to God. In a controversy with Jewish interlocutors, Philo maintains that only God was capable of giving a self-authenticating testimony, without coming into conflict with the ruling about two or three witnesses. This argument supplies a Jewish context for the point made by John that Jesus could testify to himself because of his divine origin. As Son, Jesus is divine like God, his Father, and since he is one with the Father he can bear witness to himself. Accordingly, both God and Jesus could give valid testimonies in compliance with the legal demand of at least two witnesses to substantiate the claims made by Jesus in his own defence.

As for the pragmatic concern of the gospel, I take my lead from M.J.J. Menken’s view that “the Jews are presented in John as people who know Jesus as a fully human being, who therefore cannot be the Son of God. It is only to be expected that they therefore cannot accept that God acts in Jesus’ death, which pre-eminently makes him into a fully human being.”³⁸ Accordingly, John is to be read in general as a discussion with a Jewish stance concerning Jesus’ death, and not as an anti-Docetic polemic: “The views of Jesus held by the Johannine Jews and the Docetists are poles apart: the Jews know that Jesus is a fully human being, and therefore he cannot be the Son of God, the Docetists know that he is the Son of God, and therefore he cannot be a fully human being.”³⁹ Thus, it is reasonable that Menken maintains “that the same point of discussion is at stake in disputes between Jesus and the Jews in John (see e.g., 5:17–18; 7:25–31; 10:22–39).”⁴⁰ Unfortunately, Menken does not elaborate any further on these Johannine passages from this point of view. In the framework of the Johannine

37 Borgen 2007, 57–59.

38 Menken 1997a., 197–198.

39 Menken 1997a., 197.

40 Menken 1997a., 197.

lawsuit motif, it is relevant to raise the following questions: How might Jesus, as a specific human being, claim to be divine, as the Son and the agent of God? How can the divine dimension of Jesus be legitimated in specific events and contexts?

In *chapter five*, I search for fresh answers to these questions by means of an analysis of John 5:1–18 and 10:31–39 from the levels of both an earthly jurisdiction on a human level and a divine jurisdiction. Thus, for example, various forensic topics such as the validation of the Law and the witnesses are ambiguous motifs when they are seen from either a human or a divine level respectively. On the one hand, from the position of Jesus' adversaries, the charge of blasphemy against Jesus was legally appropriate and qualified for the death penalty according to the Law of Moses. On the other hand, on the level of the divine realm and jurisdiction, a 'divine Halakha' might apply to the case of Jesus as legal precedent. Hence, the accusations against Jesus on the basis of the jurisdiction of the Law of Moses and an earthly Halakha might be turned upside down and be given a contrasted meaning when seen on the divine level. John's narrative strategy was ironic in the sense that what appeared to be legal crimes from the point of view of the 'Jews' is true on the level of the divine realm and jurisdiction. In the first section of this chapter, I shall study the echoes of a Jewish interpretative employment of Gen 2:2–3 (Aristobulus, *Letter of Aristeas*, Philo) within the literary context of John 5:1–18. This approach is influenced by the literary and poetic trope of *metalepsis* derived from literary criticism. Then, in the remaining part, I shall examine the employment of Ps 82:6 in John 10:34–36. Once again, I shall draw on Philonic data about agency, which have affinities with the Johannine passage, and which should receive due attention.

3.3 *The Theme of Jesus' Kingship in Negotiation with Jewish Hopes and the Roman Empire*

In *part three* and the last two chapters of this study, I proceed to examine the divine reversal of lawsuit motif in John, particularly with respect to the way the motif of Jesus as King is turned upside down to become the main essence of gospel.

In *chapter six*, I study the divine reversal of the plot to kill Jesus in John through the lens of the conspiracy against Joseph in Philo's treatise *De Iosepho*. Drawing on elements from the literary genre of a political *bios* and the ideology of Hellenistic kingship, both authors seem to envisage a 'conspiracy' against the protagonists Joseph and Jesus, respectively, which in the light of God's pre-determined will brings about their elevation to become the ideal king. Thus, notions that recall features from Hellenistic and Roman kingship ideology are reflected at certain key junctures in both Philo's *De Iosepho* and the Johan-

nine narrative. It is also significant that in both writings, the literary plot of a 'conspiracy' has been reversed and given a contrasted meaning, in a way that sets the antagonists themselves under divine investigation. Thus, *De Iosepho* provides a relevant Jewish analogy to John's way of dramatizing the lawsuit of Jesus.

With regard to John's negotiation with Jewish messianic hopes and the Roman empire, T. Thatcher has most recently argued that "the Fourth Gospel's crucifixion story (John 19:16–37) is a carefully crafted response to the foundational premises of imperial power."⁴¹ In Thatcher's view, John's interpretation of the Roman crucifixion is seen as a "counter-memory" that represented the true sentiments of the story, and a "profanation" of imperial values, in the sense that they parody and reverse the official Roman values: "Following this model, John's passion story profanes the commemorative narrative behind Roman crucifixion by reversing the plot in a way that makes Caesar and his agents helpless victims of the Christ who conquered the world."⁴² Furthermore, scholars have observed that at the heart of the Johannine account of Jesus' execution lies the depiction of ironic parody of coronation.⁴³ Thus, for example, J. Marcus' remarks on John's reversal of the Roman mockery of Jesus as king seem apt:

Here the mockery that has transformed kingship into a joke encounters a sharper mockery that unmasks it, so that the derision of kingship is itself derided and the true royalty emerges through negation of the negation. For many early Christians, this reversal of a reversal, which turned penal mockery on its head, was probably the inner meaning of Jesus' crucifixion.⁴⁴

In *chapter seven*, I take my lead from this perspective and shed new light on John's emphasis of the kingship of Jesus as a christological rewriting of Jewish eschatological hopes in negotiation with the Roman Empire. Thus, when the text is viewed as a response to both Jews and Romans, I shall argue that Pilate's acclamation of Jesus as ὁ βασιλεὺς (John 19:5) might be heard as an ironic entitling of Jesus as an 'Emperor'. In its literary context, I suggest that this referent might be conceived as an allusion to Num 24:7 LXX, and should be

⁴¹ Thatcher 2011, 140; 2009.

⁴² Thatcher 2011, 160.

⁴³ Cf. Reich 1905; Meggit 1998, 203–208; Marcus 2006, 73–87; Marquis 2012, 100–123.

⁴⁴ Marcus 2006, 87.

read against the background of Philo's eschatological appropriation of this text (*Mos.* 1:288–291; *Praem.* 93–97). So, a fresh proposal is made that the perceptive Johannine readers, who might catch the full implications of such a referential background, would think that Jesus was exalted as King of the Jews when the feast of Passover was about to begin, the very feast when the Jews looked to the reenactment of the exodus and the victorious campaign against their enemies, under the leadership of their commander in chief and true 'Emperor', "*the Man*". Taken together, Pilate's parody of Jesus as a triumphant emperor, the allusion to the 'Man', and the penal inscription on the cross were turned upside down and gave the execution of Jesus as a messianic pretender-king a reversed meaning in John: Jesus is now the king and world 'Emperor', who has gained victory, but transformed and transcended the expected way in which such a Jewish king and 'Emperor' would prevail and come to power. Furthermore, the motif of the kingship was also reinterpreted in the legal setting of the Roman Empire, in which the roles of Pilate and Jesus are also reversed: It is Jesus, as the victorious world 'Emperor', who has taken his place on the judgement bench (βῆμα) of the Roman Emperor.

In an excursus appended to this chapter, I further suggest, as Millar has hinted, that Philo of Alexandria provides a contemporary view of Pilate, in which the case of Jesus might be seen as involved in the political negotiation between the Jewish people and the Roman Empire, represented by the Roman governor. Thus, the execution of Jesus might be explained as the result of the double pressure exerted on Pilate, on the one hand, by the Jewish people, who enjoyed the favour of the Emperor with regards to their local autonomy and the right to observe the Law, and by the Roman empire, on the other, since Pilate himself struggled not to be out of favor with the emperor.

4 Method and Data

Although the relevant methods are more closely identified and described in some of the chapters of the book, it is appropriate at this point to provide some reflections in general on the method of approach and in particular on the historical relevance to John of Philo of Alexandria's writings and papyrological sources.

The 'new perspectives' in the main title of this book involve essentially the use of data that generate new perspectives rather than a new approach framed by different methods. Thus, my investigation of the data follows a standard 'traditio-historical' method, in which various texts, concepts, or ideas are traced and situated in the broader cultural context of Jewish and Graeco-Roman liter-

ature. In particular, my arguments for the way Philonic and papyrological data bear on the lawsuit motif in John make a significant and original contribution to the scholarly field.

Philo of Alexandria is a representative of Diaspora Judaism and of Judaism as such in the late Second Temple period. Philo is valuable for understanding the Jewish diversity of his time, not only in Alexandria. As a Jew living before the destruction of the Temple in 70 CE, Philo offers an abundance of evidence about his Jewish contemporaries and their beliefs and practices. Hence, his writings can shed light on both the commonality and the diversity among these Jews.

Philo's writings have been used to illuminate the background and the wider context of the New Testament and the Early Church.⁴⁵ Substantial parts of the New Testament are dependent on the relationship to the Jewish Diaspora. It is written by Jews in the Jewish Diapora or to members and communities living in a Jewish Diaspora context.⁴⁶ In the light of this premise, Philo's writings are not only a major reflection of such a Hellenistic Judaism, but perhaps the most important body of material that informs us about the world of the Diaspora Judaism that formed the background to the genesis of the New Testament writings.⁴⁷

What of the specific relevance of Philo for the study of the Fourth gospel? Their relationship has been discussed on a variety of levels.⁴⁸ It is an underlying principle of this investigation that none of the correlations between Philo and John establishes that the former influenced the latter, for John does not employ ideas or phrases that were demonstrably the exclusive property of Philo. Instead, I assume that Philo and John have so much in common because they draw from the common traditions of Hellenistic Judaism. However, since no sharp distinction can be drawn between Palestinian and Hellenistic Judaism, the various usages, emphases, and applications of such tra-

45 Cf. Runia 1993, 3–7.

46 See Bekken 2014 (forthcoming).

47 So, e.g., Sterling published an article with the title “Philo has not been used half enough”, in which he writes concerning the importance of Philo in studying early Christianity: “Are the works of Philo important for our understanding of the New Testament and Christian origins? I suggest they are. In fact, I think the Philonic corpus is the single most important body of material from Second Temple Judaism for our understanding of the development of Christianity in the first and second centuries. [...] the Philonic corpus helps us to understand the dynamics of early Christianity more adequately than any other corpus” (Sterling, 2003b., 251–269, esp. p. 252).

48 See, e.g., Dodd 1953, 54–73; 263–288; Runia 1993, 78–93; Borgen 2014, 43–66.

ditions should be examined within this broader and diverse context. Hence, the comparison of Philo with John's gospel is based on the assumption that the Philonic writings represent a rich collection of data providing useful illustration of a diverse Jewish and Greco-Roman background of the gospel.

What of the relevance of the papyrological data and in particular, *P.Oslo* II 17 for a comparison with John? The following presuppositions should be emphasized: Even when *P.Oslo* II 17 is dated to 136 CE, and thus written a few decades later than John, it is a premise of this study that, while we have to recognize local variations as far as the provincial procedures are concerned, the legal proceedings seem to be mainly unchanged within the Roman Empire in the period from Augustus to Diocletian. This view finds its clearest expression in the following quotation from E.J. Bickerman's essay from 1935, reprinted in English translation in 2007:

But since the comparison of the events related in the acts of the martyrs, in the Egyptian papyri, and in the works of the Roman legal scholars shows that the institutions of the empire remained basically unchanged from Augustus to Diocletian, as far as the provincial procedures in the non-autonomous regions are concerned, both on the banks of the Nile and the banks of the Jordan, we may be permitted to infer from our analyses—imperfect as they doubtless are—some conclusions of a more general nature.⁴⁹

In chapter three, I have referred to other eminent papyrologists who reach a similar general conclusion in their assessment of the legal procedures attested in the protocols in the context of the Roman provinces.⁵⁰ Most recently, scholars in the field of papyrology have emphasized and defended the 'Romanity' of the Egyptian providence, against its exclusion from general Roman history. Thus, for example, P. Arzt-Grabner and C.J. Fuhrmann have argued that Egyptian papyri show that Egyptian society cannot be separated from the Roman Empire and thus can highlight issues of legal procedures attested to elsewhere in the Roman Empire:

Die sozialen, administrativen und weitgehend rechtlichen Verhältnisse, die die zahlreichen Dokumente aus dem griechisch-römischen Ägypten widerspiegeln, sind—dies zeigen die Forschungsergebnisse immer deut-

49 Bickerman 2007, 778.

50 Cf. most recently, Kelly 2011; Bryen 2013; Palme 2014; Yiftach-Firanko 2014.

licher—zumindest auch für die anderen Provinzen des östlichen Mittelmeerraumes vorauszusetzen.⁵¹

Egyptian papyri highlight issues of crime and policing attested to elsewhere in the empire, from “wanted” posters for runaway slaves to soldiers stealing pack animals. Such cross-references show that Egyptian society was not a wholly separate world unto its own but shared important traits with the rest of the Roman world. Egypt belongs in the picture.⁵²

We should note that such conclusions are based on the cumulative weight of legal attestations in inscriptions, papyri, histories, biographies, Roman legal writings, and Judeo-Christian literature. Such evidence and cross-references to relevant legal data, including first- and second-century protocols, provide enough parallel material for a thorough analysis of how the legal procedures reflected in both *P.Oslo* 11 17 and John’s gospel operated in the Roman empire.

Certain presuppositions of my study are of a more fundamental character. In searching for parallels to a biblical expression or custom in extra-biblical sources, it is a basic rule that one needs to be cautious. When one compares texts, a presupposition is, of course, that both texts contain comparable material. One has, moreover, to pay sufficient attention to both the similarities and the differences. One must at least concentrate on the differences. This is important in order to avoid over-bold analogy and identification.⁵³ But, even while looking for differences, the distinctive features must not be exaggerated to such an extent that the genuine similarities become concealed. The resemblances in method, form, content etc. which in fact may exist and are perhaps already presupposed, must not be obscured, although a comparative study always entails the risk of over-emphasizing the analogies and overlooking the divergences.

Finally, it is necessary to point out that my study is not a quest for the historical Jesus in the Fourth Gospel. Rather, my aim has been to investigate

51 Arzt-Grabner 2010, 131–157, esp. p. 132.

52 Fuhrmann 2012, 18.

53 Cf. Kelly’s warning to be cautious with regard to the inferences we draw from the parallels between the procedures observable in Egypt and in the rest of the Roman empire: “But even though such parallels exist, we should be wary of filling evidentiary voids in the rest of the empire with simple extrapolations from the Egyptian evidence. [...] In this regard, Egypt might not have been any more peculiar than any other region of the empire; but the legal culture of each region needs to be understood primarily on its own terms” (Kelly 2011, 330–331).

how John on the level of his literary composition situates and interprets the sequence of the events of Jesus in the Jewish and Greco-Roman context of cultural and legal traditions, terminology, and procedures known to him and presumably to the first receivers of his gospel.

PART 1

The Jewish and Roman 'Trial'



Jewish Reactions against Violators of the Torah in Philo and John

1 The Thesis

The thesis of this chapter is that the attempts to have Jesus killed *or* arrested for such crimes as breaking the Sabbath, blasphemy, and seduction envisaged in John 5–10 are more comprehensible within the Jewish cultural and forensic context attested by Philo. Philo's writings lend support to the suggestion, at least on a theoretical level, that there might be two kinds of legal reactions on the part of the Jewish community in such cases: Either the understanding that in certain circumstances vigilante execution on the spot was to be regarded as a legitimate process, although it was an extra-legal measure, or the view that the regular process should be the one according to which the criminal is subject to arrest, trial, and execution.

Although in the context of the first century CE such repressive measures as vigilante execution might be regarded as irregular in relation to an official Jewish and Roman trial, such a penal process, might plausibly be regarded as legitimate and within the jurisdiction of the Jewish Law in situations in which the Roman authorities were not available for a regular process, or were in other ways not to be trusted. Hence, at a time in which the Jewish people experienced the dilemma of being loyal to the demands of both Roman law and the Torah, it might be that Jews independently of the Roman administration inflicted the capital punishment on fellow Jews and hence took 'the Law into their own hands'.

Data from Philo of Alexandria's writings attest, at least on a judicial theoretical level, the approval of vigilante execution on the spot of Jews who publicly apostatized, committed idolatry, uttered blasphemy or seduced other Jews. According to Philo, the Law of Moses provided a capital jurisdiction that had relevance for similar conflicts, through employing earlier precedents for subsequent appropriations. Although Philo does not explicitly record real cases of lynch law exercised on the spot, and it might be difficult to claim with any degree of certainty whether Philo would have really put his theoretical discourse on lynch law into practice, his writings probably advocate taking such actions against Jews who had violated the laws of Moses. In the light of the presence of zealous persons in Alexandria, as evidenced elsewhere in Philo's

writings, it is reasonable to assume that there were at least some people who were ready to take such actions.

My argument is that John's literal outworking of the attempts on Jesus is more comprehensible in the kind of Jewish cultural context evidenced by Philo. With regard to John's narrative about the attempts on Jesus, it should be pointed out in the outset that I do not see the Gospel texts as a historical report and factual depiction of reality from Jesus' life. On the level of John's literary composition, the reasons why the attempts on Jesus' life are not effectuated on the spot depend more on the outworking of the plot's theological framework, in which the time for the both the human and the divine verdict will coincide with Jesus' crucifixion, rather than on the view that the Jewish antagonists were restrained by the absence of any permissible practice of vigilante execution. On the level of historical reality, I surmise that even if the Romans would not have permitted executions on the spot, this does not imply that some Jews did not occasionally practice it.

It should be emphasized, however, that Philo maintains that the legal process is the regular one according to which the criminal is subject to arrest, trial, and execution. My suggestion in what follows is that the Johannine narrative reflects both the procedure of a regular trial and the proceeding of extra-legal measures taken against Jesus.

The outline of this chapter is as follows: I begin with a survey of the present state of research. Then I shall analyse some selected Philonic texts that reflect a regular legal process, as opposed to 'vigilante execution' exercised on the spot. Finally, I shall show how the Philonic data might provide a Jewish cultural context within which some of the relevant Johannine texts are better apprehended. The study will be rounded off by some conclusions.

2 A Sketch of the State of Research

In the book "Jesus on Trial", A.E. Harvey sets forth the hypothesis that the literary form of a 'trial', conceived according to Jewish conventions and procedures evidenced in e.g. Lev 24:10–17; Deut 17:6–7 and *m. Sanh.* 6:1–4 and 7:5, finds corroboration in some characteristic Johannine passages such as John 5:16–47 and 10:31–39. Harvey defines the model he extracts from these texts as follows:

If the witnesses were found to be admissible and competent, and if their evidence was clear and unambiguous, conviction would follow automatically; and in many cases it was the same witnesses who would have the

responsibility of carrying out the sentence. Evidence, judgement, and sentence were thus much less clearly separated than would be conceivable in a western court.¹

Harvey presupposes that both the author and the implied readers of John were familiar with such procedures and proceedings of Jewish litigation. Thus, he maintains that there are several cases reported in John in which Jesus is put on trial by the 'Jews' for the same offences, such as his alleged breaking of the Sabbath and claim of equality with God.²

A.T. Lincoln and M. Asiedu-Peprah have recently objected to Harvey's hypothesis. Referring to Harvey's notion that the Johannine account of an extended trial throughout the ministry of Jesus is more plausible than the Jewish trial in the Synoptics, Lincoln states: "Harvey's argument is that the former is more plausible because of its conformity to Jewish legal procedures. But the evidence for our knowledge of these procedures is from a much later date [...]."³

Likewise, Asiedu-Peprah rejects the assertion of Harvey that John's Sabbath conflict narratives correspond to the literary form of 'judicial proceedings' or 'trial scenes': "Harvey claims that the Jewish procedure allowed the man's accuser to also be his judges. [...] However, he does not offer any documentation to substantiate his claim, which, in my view, is untenable."⁴

Lincoln's and Asiedu-Peprah's point of view seems to be supported by the scholarly consensus that the provisions of Mishnah were not in force during the time of Jesus. Thus, it is more common for scholars to refer to the Old Testament legislation and forensic proceedings without referring to sources from the Second Temple period or Mishnah to explain the legal proceedings involved. Thus, for example, Asiedu-Peprah conjectures that the Johannine Sabbath narratives are best understood, not as 'trials', but as a 'juridical two-party controversy' in the Old Testament rib-pattern.⁵ Furthermore, R. Hakola makes the claim that "the way the Jews in John respond to Jesus' Sabbath breaking is not the most likely response to Sabbath breakings in a first-century context. The response of the Jews echoes scriptural Sabbath legislation, rather than any first century practice."⁶

1 Harvey 1976, 47.

2 Harvey 1976, 55.

3 Lincoln 2000, 308.

4 Asiedu-Peprah 2001, 22 n. 51.

5 Asiedu-Peprah 2001, 9.

6 Hakola 2005, 124.

Against the background of this brief review of recent scholarship, the question arises whether we actually have comparative data at all from the first century CE which can throw light on the forensic proceedings against Jesus as these are presented by John. The Philonic writings give indications which point in the direction of an affirmative answer to this question.

In a study published in 1914, J. Juster was the first scholar to suggest that the phenomenon of lynch law in Philo supplied evidence for such a Jewish practice in the first century CE. He also held that the New Testament narrative of Acts 9:22–24 and Talmudic literature (*b. Sanh.* 82a) supported this view.⁷

E.R. Goodenough further developed this hypothesis in his study of the jurisprudence of the Jewish courts in Egypt, where he claimed that Philo often attested a Jewish practice of lynch law that was called for without ‘due process’ in cases where a fellow Jew had transgressed the Law.⁸ Moreover, he extended the comparison with the New Testament and suggested that his thesis found corroboration in New Testament texts such as e.g. Acts 6:1–8:3 and John 8:1–11:

[...] the evidence of the New Testament is ample that Jews acted precisely in the spirit of Philo, and, without references to any Roman tribunal, freely followed their own instincts in dealing with heretics. Philo seems to be expressing here not rhetoric, but the actual Jewish procedure of the day.⁹

G. Alon followed Juster and Goodenough when he contended that Philo’s view that the violaters of the Law should be handed over to lynching without taking the accused to court in fact had preserved an ancient halakha, documented in Acts 23:12–15 and other Jewish texts such as 1 Macc 1:24, *m. Sanh.* 4:4; 9:6; *Jub.* 30:7; 14–15, *b. Sanh.* 8b and 80b.¹⁰

T. Seland joined these scholars in his extended study of Philo’s description of vigilante execution on the spot in comparison with the New Testament.¹¹ After a detailed analysis of the Philonic data, Seland’s main conclusion is that Philo endorses actions to be taken on the spot against violaters of the law taken ‘in *flagrante*’:

⁷ Juster 1914, 2.158 n. 2.

⁸ In particular, Goodenough (1968, 34) refers to *Spec.* 1:54–57, of which he says: “It would be difficult to find the lynching spirit better comprised into a single paragraph in any literature, while the specific mention that the case is not to be referred to the Roman governor gives the whole a most realistic ring.”

⁹ Goodenough 1968, 35.

¹⁰ Alon 1977, 112–124.

¹¹ Seland 1995.

Though we have no sources from Philo available that explicitly record actual cases of establishment violence, we have nevertheless his expositions of cases of gross non-conformity to the Torah in which he argues for coercive actions to be taken on the spot. He legitimates his expositions by drawing upon traditions of the great hero Phinehas, and he admonishes the agents to carry out the counter-measures quite independently of any decision of court.¹²

Seland draws upon these observations when he explores the Stephen episode (Acts 6:1–8:3) and Paul's experiences in Jerusalem (Acts 21:15–36 and 23:12–15). In Seland's view, these texts attest that Stephen and Paul are prosecuted by individual vigilantes who followed a Torah-inspired lynch law.¹³ In a review of Seland's thesis, G.E. Sterling criticized his conclusions that the cases of Stephen and Paul provide possible analogies to Philo's lynch-law, since both incidents involved legal processes including a third party, either as a hearing before the Sanhedrin or as a legal interference by Romans.¹⁴ Since Philo's lynch law implies actions that are to be taken as extra-legal measures on the spot, without involving any Roman tribunal or Jewish court, some of the Johannine texts here concerned are, perhaps, even more useable than Acts for a comparison with Philo. Thus, the approach suggested by Juster, Goodenough, and Alon—that Philo probably attested a lynch law that found corroboration in New Testament texts and other Jewish evidence from the Second Temple period, and which has been extended by Seland's studies—should also be applied to a study of the cases reported by John concerning the alleged crimes of Jesus and the efforts to have him killed on the spot for these offences. The original contribution of this chapter is to advance the discussion of these Johannine texts in the light of Philo's data.¹⁵

12 Seland 2003, 117–140, esp. p. 139. Seland's thesis has recently been supported by Berthelot 2007, 113–129.

13 Seland (2002, 449–471) also suggests in an essay on Galatians 1:13–14 that the pre-Christian Paul probably represented this kind of vigilante attitude in his persecution of the early followers of Jesus.

14 Cf. Sterling 2003a. I concur with Sterling's criticism with regard to the legal procedure attested in Acts 6:1–8:3. A closer analogy to the proceeding in this text may be Philo, *Spec.* 2:251, in which the formal execution of stoning was exercised by the witnesses who had initiated the process.

15 Seland points to the fact that the Gospel of John contains records of violent measures taken against non-conformists to the Law, referring to texts such as John 5:18; 7:1, 19, 25; 8:37, 40; 10:33; 11:53, and 16:2, cf. Seland 1995, 59, 236, 253. However, despite these references

3 Jewish Reactions against Violators of the Torah in Philo

As I shall argue in this section, Philo attests two modes of legal reactions in cases of capital violations of the Law of Moses, viz. vigilante execution on the spot and a legal process according to which the criminal is subject to arrest, trial, and execution. According to Philo, the former procedure was to be considered as a legitimate action on the ground of legal patterns found in the Jewish Law, although it was an extra-legal measure. The latter mode of procedure is demonstrated in two texts which describe the same incident based on Num 15:32–36. I shall begin with some comments on these as a foil for Philo's approval of killing on the spot someone who had publicly violated the Torah, since these texts have been employed as evidence for the assumption that Philo did not approve of such practice.¹⁶ However, rather than bolstering an opposition to lynch law, a closer reading of these texts indicates that Philo might differentiate under certain circumstances between capital punishment on the spot as an extra-legal measure and within the framework of 'due process'. Thus, Philo's data suggest that there were both cases in which Jewish men might exact punishment as a kind of 'self-help', i.e., addressing crimes by private initiative or non-institutional means of conflict resolution, and other cases in which Jewish communities did have recourse to an official legal institution, and were able to practice their own laws and customs, either without Roman state interference or in collaboration with the provincial Roman government.¹⁷

3.1 *The Case of Breaking the Sabbath: De Vita Mosis 2:213–220; De Specialibus Legibus 2:250–251*

In *Mos.* 2:213–220 Philo makes an expository paraphrase of the case story of the Sabbath breaker who suffered the penalty of death by stoning (Num 15:32–36). This is one story of four in which Moses is presented as a prophet, receiving God's judgements in an oracle as answer to his question of what should be the right decision (*Mos.* 2:192–245). *Mos.* 2:213–220 should be read in conjunction with its parallel in *Spec.* 2:250–251, which describes the death penalty as the appropriate punishment for disobedience to the fourth commandment. The two texts run as follows:

to John, Seland does not elaborate any further on these texts against the backdrop of the Philonic data.

¹⁶ See Seland 1995, 23 n. 26 for references.

¹⁷ For a recent study of both non-institutional 'self-help' and institutional policing and jurisdiction in the Roman empire, see Fuhrmann 2012, 44–87.

Mos. 2:213–220:

Now, a certain man, setting at nought this ordinance, though the echoes of the divine commandments about the sacredness of the seventh day were ringing in his ears, commands promulgated by God not through His prophet but by a voice which, strange paradox, was visible and aroused the eyes rather than the ears of the bystanders, went forth through the midst of the camp to gather firewood, knowing that all were resting in their tents. But that his crime might not remain hidden, he was observed while still engaged in the wicked deed. For some persons who had gone out of the gates into the wilderness to pray in the quiet open solitude saw the lawless sight, a man gathering sticks for fuel, and hardly able to control themselves they were minded to slay him. Reflection, however, caused them to restrain the fierceness of their anger. They did not wish to make it appear that they who were but private citizens took upon themselves the ruler's duty of punishment, and that too without a trial, however clear was the offence in other ways, or that the pollution of bloodshed, however justly deserved, should profane the sacredness of the day. Accordingly they arrested him, and took him before the ruler beside whom the priests were seated, while the whole multitude stood around to listen [...]

So then the perpetrator of this great sin against God was for the first time being taken into custody. But Moses was in doubt as to what should be done to him. He knew that the action deserved death, but what would be the proper method of punishment? So, then, in spirit, he approached the judgment seat, invisible even as the spirit which sought it, and asked of the Judge Who knows all before He hears it what His sentence was. That judge declared His decision that the man should die, and by no other death but stoning; since in him, as in the earlier culprit, the mind has been changed into a senseless stone by a deed which was the perfection of wickedness, and covered practically all the prohibitions enacted for the honoring of the seventh day.

Spec. 2:250–251:

When a single man [...] went out to gather firewood, but actually succeeded in displaying his disobedience to the law. He returned bringing an armful, but the others, pouring out from the tents, though greatly enraged refrained from violence on account of the sanctity of the day, but took him to the ruler and reported the impious deed. The ruler put him in custody,

but when the divine pronouncement had been given out that he should be stoned, he surrendered him to those who had first seen him to be done to death.

3.1.1 The Crime

The basic structure of these texts is a criminal case story with subsequent judicial discussion of the nature and charge of the crime, the proper legal procedure to be followed, the verdict, and the proper execution. In many of Philo's comments, however, he goes beyond the information in the biblical text. Thus, for example, Philo emphasizes the offender's crime as disobedience of the divine commands. He points out that "the echoes of the divine commands about the sacredness of the seventh day were ringing in his [the stick gatherer's] ears" (*Mos.* 2:213). Thus, by the gathering of sticks "he only succeeded in showing his disobedience" (*Spec.* 2:250). He left the camp to gather firewood "knowing that all were resting in their tents" (*Mos.* 2:213). By contrast, those who witnessed "the wicked deed" had gone "into the wilderness to pray in the quiet open solitude" (*Mos.* 2:214).

Philo also characterizes the crime of gathering firewood on the Sabbath as "the perfection of wickedness, and covered practically all the prohibitions enacted for the honouring of the seventh day" (*Mos.* 2:218). At this juncture, Philo makes use of a tradition which interpreted the gathering of sticks used to make a fire with the fire itself:

How is this? Because not merely the mechanical but also the other arts and occupations, particularly those which are undertaken for profit and to get a livelihood, are carried on directly or indirectly by the instrumentality of fire. And therefore, he often forbids the lighting of a fire on the seventh day, regarding it as the cause which lay at the root of all and as the primary activity; and if this ceased, he considered that other particular activities would naturally cease also. But sticks are the material for fire, so that by picking them up he committed a sin which was brother to and of the same family as the sin of burning them. And his was a double crime; it lay first in the mere act of collecting, in defiance of the commandment to rest from work, secondly in the nature of what he collected, being materials for fire which is the basis of the arts.

Mos. 2:218–219

Here a connection is made between the crime of gathering of sticks, in itself, according to Philo, unlawful in the light of the commandment to rest (*Exod* 20:10), and the prohibition to light fires (*Exod* 35:3). This connection, which

is lacking in the Bible, and might depend on a Jewish halakhic tradition,¹⁸ leads Philo to give a cosmic interpretation of collecting firewood for the use of making fire, which was taken symbolically to mean the basis of all arts and which covered practically all the prohibitions enacted for honouring the Sabbath. Thus, the collecting of firewood implied that the Sabbath-breaker enhanced his crime: by picking up firewood made for lighting a fire, he not only broke the commandment of resting, but in practice he committed a crime against the prohibitions against all the other activities as well, since in the nature of what he collected, the fire was the cause of all the particular activities and occupations.

3.1.2 The Legal Procedure

The legal procedure is also emphasized with features that go beyond the biblical text. Having been witnesses to “this lawless sight”, they were minded to have him executed on sight. However, only reflection and control of their anger caused them to put him on trial and not to become a lynch mob or to contribute to the pollution of bloodshed on the Sabbath. Thus, when Moses as judge was close at hand, they did not act as “private men” (ιδιωται) in contrast to him as an official person, but arrested him and brought him to Moses. Then, Moses, who “knew that the action deserved death”, without knowing the proper method of punishment, approached the judgement-seat of God, the Judge, and asked what his sentence was (*Mos.* 2:217). Apparently Moses was at loss as to how to deal with the proper method of punishment, because there was no precedent in a case such as this and the other three cases Philo mentions in *Mos.* 2:192–245, and hence Moses had to communicate directly with God in the form of a question and answer. In the case of the blasphemer (*Lev* 24:10–16; *Mos.* 2:192–202), a new ordinance had to be promulgated, because there was no precedent.

Almost as in a *bat qôl*, the decision God declared to Moses was that the man should die by the execution of stoning. According to *Spec.* 2:251, the stoning was exercised by the witnesses who had initiated the process. Here too, Philo seems to be applying an earlier tradition which is attested in the rabbinic literature.¹⁹ It is not implausible, as Seland suggests, that these texts are meant as a warning to allegorists, who in preference for a symbolic interpretation of the laws of Moses neglected the external observance.²⁰ Such a criticism is

18 Belkin 1940, 199.

19 See *Sifre Bamidbar* 114 (to *Num* 15:35) [ed. Horowitz, 123]; Doering 1999, 361.

20 Seland 1995, 174.

evident in *Migr.* 89, directed to those who abrogated the Sabbath law in order to “light fire or till the ground or carry loads”. Moreover, in *Migr.* 86 Philo deals with some Jews who were understood to cross the boundary of the Jewish nation by interfering in a dangerous way with the established customs of the Jewish Law.²¹ Here he uses the term ἐπιβουλεύω, which means to plot against in a hostile manner, and often with the intention of killing:²² “For very many [...] through paying no regard to the general opinion have become objects of hostility (ἐπιβουλεύω).”²³ Thus, as a result, they were plotted against by the other Jews. Similarly, in *Migr.* 93 Philo warns “some”, who ignored the external observance of the Law, such as e.g. abrogating the Sabbath halakha, against the reprisals of the Jewish community. He says indirectly that the potential non-conformist to the Law of Moses will incur the censure and charges of the many: “If we keep and observe these [outward observances] [...] we shall not incur the censure of the many and the charges they are sure to bring against us.” The Greek term for “accusation/charge”, κατηγορία, may be used in a broad way about an “accusation” in general²⁴ or in a more technical way within the judicial context of court procedure, such as in *Legat.* 350: “[...] he [the judge] would listen in turn to the accusation (κατηγορία) [...]”. Either alternative may be present in *Migr.* 93.²⁵

We round off the analysis of the criminal case reflected in *Mos.* 2:213–220 and *Spec.* 2:250–251 with some brief reflections on the legal proceedings involved. Although we must be careful not to draw too general conclusions about the legal procedure depicted in this case, it seems inappropriate to claim that these texts oppose lynch law. It would be better to say that the texts indicate a regular process of law as the only possible outcome in this circumstance, for the following reasons: First, Moses as the supreme Judge was present and was thus available for a trial. When Moses was close at hand as the ‘official’

21 H.A. Wolfson (1947, 1.67) suggested that Philo here appeals to the non-conformists to remain loyal to Judaism and the Jewish community.

22 Compare *Migr.* 208; *Det.* 45, 69; *Spec.* 3:94, 141, 180, 204.

23 In *Spec.* 2:252–253, Philo deals with the case of perjury. Here he states that such a crime never will evade the chastisement of men, because “there are thousands who have their eyes upon him full of zeal for the laws, strictest guardians of the ancestral institutions, merciless to those who do anything to subvert them” (*Spec.* 2:253). This text has almost the nature of a report on the presence of violent zealots, who were vigilantes against persons thought to be breaking away from the Law of Moses and the constitution of the Jewish communities.

24 Such as in *Fug.* 36 about the accusation of hesitation and indolence.

25 See Borgen 1987a., 68.

authority, the men who discovered the crime did not act as “private men”, “who took upon themselves the ruler’s duty of punishment, and that too without a trial”, but arrested and brought the offender before him for a proper judgment. Second, a trial was requested, since Moses had not yet decided the appropriate penalty which would fit the crime. Hence, it was only after he received the proper judgment from God that the death penalty could be carried out. Third, the fact that the infraction of the law took place at the time of the Sabbath prevented a vigilante execution on the spot, since bloodshed on the Sabbath would have meant an additional infraction of the Torah and profanation of the sacredness of this day.

In the analysis of the various reactions to Jesus’ violation of the Sabbath below, I shall suggest that John 7 reflects the subsequent reactions against the alleged criminal, similar to those depicted in Philo, *Mos.* 2:213–220 and *Spec.* 2:250–251, i.e., either the procedure of an execution on the spot by those who observed the committing of the crime, or bringing the case to the official judicial authority in accordance with the law of Moses.

I shall proceed to consider two other cases, however, that seem to indicate that Philo, at least on a judicial theoretical level, approved of killing on the spot Jews who publicly apostatized by having committed idolatry or who had seduced fellow Jews.

3.2 *The Case of Apostasy: De Specialibus Legibus 1:54–57*

Philo has a distinctive conception of the Ten Commandments of the Decalogue in connection to all the other ‘Special Laws’ of the Torah, which he metaphorically depicts as the relation of the head to the parts of the body, the general to the special, the genus to the species. Thus, the Ten Words are “heads summarizing the particular laws” (*Decal.* 19), while “all particular laws” are “dependent species” (*Spec.* 4:132).²⁶ *Spec.* 1:54–57 is part of Philo’s exposition of these “species” or in English translation ‘Special Laws’, which he relates to the First and Second Commandments of the Decalogue. Within this framework, Philo elaborates on the status of the proselytes in contrast to the apostates (*Spec.* 1:51–57). In *Spec.* 1:54–57, he emphasizes that while proselytes are to be welcomed and included among the people who honor the one true God, the apostates must be put to death, taking the story of Pinehas as a procedural precedent. In what follows, Philo’s explication of the crime of the apostates and the legal action to be taken against them will be examined in more detail.

26 Cf. Amir 1990, 121–160; Pearce 2012, 327–328.

3.2.1 The Crime

(54) τῶν δ' ἀπὸ τοῦ ἔθνους εἴ τινες καθυφίενται τὴν τοῦ ἑνὸς τιμὴν, ὡς λιπόντες τὴν ἀναγκαιοτάτην τάξιν εὐσεβείας καὶ δσιότητος ταῖς ἀνωτάτω τιμωρίαις ὀφείλουσι κολάζεσθαι, σκότος αἰρούμενοι πρὸ αὐγοειδεστάτου φωτός καὶ τυφλὴν ἀπεργαζόμενοι διάνοιαν ὃξὺ καθορᾶν δυναμένην.

But if any members of the nation betray the honor due to the One, they should suffer the most severe penalties. They had abandoned their most vital duty, their service in the ranks of piety and religion, have chosen darkness in preference to the brightest life and blindfolded the mind which had the power of keen vision.

The case in *Spec.* 1:54 is stated in the form of casuistic laws, which comprise two parts—the protasis, which specifies the offence (“if any [...] betray the honor due to the One”), and the apodosis, which describes the consequence (“they should suffer the most severe penalties”), usually the punishment. In this section I shall elaborate on the content of the protasis. The crime described is apostasy or betraying the honour due to the one God; thus, the object for the verb καθυφίημι in *Spec.* 1:54 is stated as τὴν τοῦ ἑνὸς τιμὴν: “the honor due to the One.” The import of this aspect must be apprehended in the light of Philo’s emphasis on the oneness of God and the honor due to him. For Philo, the honoring of God is related to adherence to the Law and to the worship of the one true God. When he speaks of Gaius as a counterfeit god, who threatened to usurp divine status by setting up a statue of himself in the temple of Jerusalem, Philo describes this blasphemy as the gravest mistake a person can make: “[...] do you a mere man seek to annex also ether and heaven [...] and do you deem God worthy of nothing in our world here below [...] so that in circumference of this great earth no trace or reminder should be left of the reverence and honour due to the truly existing veritable God? (μηδὲ ὑπόμνημα καταλειφθῆ τιμῆς καὶ εὐσεβείας τῆς εἰς τὸν ὄντως ὄντα ἀληθῆ θεόν;)” (*Legat.* 347). A number of Philonic expressions that almost serve as formulae express the conviction that God is the only truly existent God, e.g., in *Spec.* 1:313, 331; *Virt.* 34, 40, 102, 114; *Praem.* 123. The expression “one” (εἷς) as a referent for God is commonplace in Philo, who in fact employs εἷς about God more frequently than any other Jewish writer up until the end of the first century CE.²⁷ The issue of God’s unity in Philo relates to two other conceptions of God, grounded in the faith in the one God of the

27 Cf. Waaler 2008, 160–167.

Shema (Deut 6:4), i.e., God as the creator of the whole world and the one God in contrast to polytheistic belief in many gods. The former aspect implies that Philo subordinates every other being to the one God, while the latter aspect opposes the God of the *Shema* to pagan polytheism and pagan cults. Both these aspects find expression in Philo's comments on the First Commandment:

Let us, then, engrave deep in our hearts this as the first and most sacred of commandments, to acknowledge and honor one God Who is above all, and let the idea that gods are many never even reach the ears of the man whose rule of life is to seek for truth in purity and guilelessness.

Dec. 65

This belief in the one true God leads both to a negative assessment of polytheistic cults, and to an emphasis of the correct way of worship of the one God. Accordingly, while polytheism is considered by Philo as blasphemy and dishonor to God (cf. e.g., *Ebr.* 110; *Conf.* 42–43), the Jews and the proselytes are said to be honoring God, when they worship God and perform “how the honors due to Him should be paid” (*Spec.* 1:65), that is, by following the injunctions of the commandments of the law (*Spec.* 1:65–298). In strict contrast to this correct worship, apostasy is then described in *Spec.* 1:54 as abandoning this honoring of the true God. Thus, the apostates are depicted in terms that recall the life proselytes leave behind when they make a transition from the many gods to the true living God. A text like *Virt.* 179 makes it clear that the conversion from polytheism to Jewish monotheism was central when Gentiles became proselytes:

So therefore all these who did not at the first acknowledge their duty to reverence the Founder and Father of all, yet afterwards embraced the creed of one instead of a multiplicity of sovereigns, must be held to be our dearest friends and closest kinsmen.

In this passage, Philo describes the various forms of polytheism in a general way. However, in other parts of his ‘Exposition’ Philo offers criticism of polytheism, and specifies a variety of polytheistic cults, such as worship of the creation in the form of deification of elements within the cosmos²⁸ and living creatures

28 Cf. *Decal.* 54–56, where Philo refers to several Greek and Roman gods, such as Kore, Demeter, Pluto, Poseidon, Hera, Hephaestus, Apollo, Artemis, Aphrodite, Hermes and the Dioscuri. Cf. also *Spec.* 1:19–20; *Wis* 13:2; *Rom* 1:23, 25.

(animals),²⁹ and worship of lifeless images such as sculptural forms of deities.³⁰ To summarize this point: *Spec.* 1:54 follows the pattern of drawing a contrast between proselytes and Jews who betrayed their Jewish religion. In this case, the contrast serves to emphasize their betrayal of the honor due to the One God, in contradistinction to the religious conversion of the proselytes.³¹

3.2.2 The Legal Procedure

(55) καὶ ἐπιτετράφθαι δὲ καλὸν ἅπασιν τοῖς ζῆλον ἔχουσιν ἀρετῆς ἐκ χειρὸς ἀναπράττειν ἀνυπερθέτως τὰς τιμωρίας, μήτ' εἰς δικαστήριον μήτ' εἰς βουλευτήριον μήτε συνόλως ἐπ' ἀρχὴν ἄγοντας, ἀλλὰ τῷ παραστάντι μισοπονήρῳ πάθει καὶ φιλοθέῳ καταχρησθαι πρὸς τὰς τῶν ἀσεβῶν ἀπαραιτήτους κολάσεις, νομίσαντας αὐτοὺς ὑπὸ τοῦ καιροῦ τὰ πάντα γεγενῆσθαι, βουλευτάς, δικαστάς, στρατηγούς, ἐκκλησιαστάς, κατηγορούς, μάρτυρας, νόμους, δῆμον, ἵνα μηδενὸς ὄντος ἐμποδῶν ἄφοβοι σὺν ἀδείᾳ πολλῇ προαγωνίζωνται ὁσιότητος.

And it is well that all who have a zeal for virtue should be permitted to exact the penalties offhand and with no delay, without bringing the offender before jury or councilor any kind of magistrate at all, and give full scope to the feelings which possess them that hatred of evil and love of God which urges them to inflict punishment without mercy on the impious. They should think that the occasion has made them councillors, jurymen, high sheriffs, members of assembly, accusers, witnesses, laws, people, everything in fact, so that without fear or hindrance they may champion religion in full security.

Spec. 1:55

The part of the casuistic clause comprising the apodosis in *Spec.* 1:54 describes the resultant punishment of the betrayal of the one God (“they should suffer the most severe penalties”), and *Spec.* 1:55 then characterizes further the procedure of execution and its agents. I will comment on both these aspects in due turn.

The description of the measures to be taken against the accused is first stated very briefly: “they should suffer the utmost penalties” (ταῖς ἀνωτάτω τιμωρίαις ὀφείλουσι κολάζεσθαι). It is plausible that this expression signifies capital punishment. As Seland has demonstrated, this interpretation can be

²⁹ Cf. *Decal.* 76–80.

³⁰ Cf. *Decal.* 66; *Spec.* 1:21, 28–29. *Mos.* 2:205.

³¹ Examples of such texts are *Virt.* 183 and *Praem.* 152.

substantiated (1) by the observation that the expression ταῖς ἀνωτάτω τιμωρίαις is used in a similar way about death as an appropriate punishment for various crimes in other Philonic texts (e.g., in *Mos.* 2:204 for the crime of blasphemy; and in *Spec.* 3:53–62 about the death of the woman accused of adultery); (2) by the description of the practice and legitimation which follow in *Spec.* 1:55–57; (3) by the reference to the capital punishment that is to be inflicted on the transgressors of the first five Commandments, according to *Spec.* 2:242–256.³²

The interpretation of the penalties as an injunction to legal action to be exercised on the spot and without due process is supported by Philo's injunction: "without bringing the offender before jury or councilor any kind of magistrate at all". Instead, the agents are to consider themselves as executing the legal functions usually carried out in the context of a regular trial (*Spec.* 1:55): νομίσαντας αὐτοὺς ὑπὸ τοῦ καιροῦ τὰ πάντα γεγενῆσθαι, βουλευτάς, δικαστάς, στρατηγούς, ἐκκλησιαστές, κατηγοροὺς, μάρτυρας, νόμους, δῆμον ("They should think that the occasion has made them councillors, jurymen, high sheriffs (στρατηγούς), members of assembly, accusers, witnesses, laws, people, everything in fact [...]"). Here Philo employs terms denoting court officials that refer to the cultural context of both Jewish and Greco-Roman legal administrations of his own time.³³ It is noteworthy that Philo here most probably includes among the court officials the Roman magistrate (στρατηγός), who was the chief of the police authorities in the Roman administration of the Egyptian nome.³⁴ According to Goodenough, "the specific mention that the case is not to be referred to the Roman governor gives the whole a most realistic ring."³⁵ The important point here is Philo's emphasis that in a criminal case such as apostasy, if the offender was discovered 'in *flagrante*', a penal action was to follow immediately, that is to say, on the spot due to the occasion, without interference by any legal administration at all. In such situations, it seems that Philo advocated the practice of lynch law, not by "private citizens [who] took upon themselves the ruler's duty of punishment, and that too without a trial", as would have been the case described above in *Mos.* 2:214, but by agents who should conceive themselves as officially authorized to legally carry out the sentence. Thus, it seems that the occasion, provided that the evidence of the crime and the corresponding punishment were clear and unambiguous, would make the witnesses liable to exercise on the spot all the legal functions which were

32 Seland 1995, 122.

33 Seland 1995, 123–125.

34 For further comments on this group of officials, see the next chapter.

35 Goodenough 1968, 34.

normally performed in the administration of regular trials. As we see from what follows in *Spec.* 1:56, Philo found the legal precedent for such actions to be performed on the spot in the Torah itself, represented by the example of Phinehas:

(56) ἀναγέγραπταί τις ἐν τοῖς νόμοις τὸ καλὸν τοῦτο τόλμημα τολμῆσας. ἐπειδὴ γὰρ ἐθεάσατό τινας ἀλλοφύλοις συνόντας γυναιξὶ καὶ ἕνεκα τῶν πρὸς αὐτὰς φίλων ἀλογοῦντας μὲν τῶν πατρίων, τελουμένους δὲ τὰς μυθικὰς τελετάς, ἕνα τὸν ἑξάρχον καὶ ἡγεμόνα τῆς παρανομίας καταθαρροῦντα ἤδη παρεπιδείκνυσθαι δημοσίᾳ τὸ ἀνοσιούργημα καὶ θυσίας ἀγάλασι καὶ ξοάνοις ἀθύτους φανερώς ἐπιτελοῦντα παρόντος ἅπαντος τοῦ πλήθους ἐνθουσιῶν, ἀνείρξας τοὺς παρ' ἐκείνων ἐπὶ τὴν θέαν ἡθροισμένους, οὐδὲν εὐλαβηθεὶς ἀναιρεῖ σὺν τῇ γυναικί, τὸν μὲν ἕνεκα τῆς εὐμαθείας τῶν ἁ λυσιτελὲς ἀπομανθάνειν, τὴν δ' ὅτι διδάσκαλος κακῶν ἐγένετο.

(57) τοῦτ' ἐργὸν ἐξαίφνης δρασθὲν ἐν θερμῷ παραστήματι μυρίου ἐνουθέτησε τῶν ἐπὶ ταῦτα παρασκευαζομένων.

(56) There is recorded in the Laws the example of one who acted with this admirable courage. He had seen some persons consorting with foreign women and through the attraction of their love-charms spurning their ancestral customs and seeking admission to the rites of fabulous religion. One in particular he saw, the chief ringleader of the backsliding, who had the audacity to exhibit his unholy conduct in public and was openly offering sacrifices, a travesty of the name, to images of wood and stone in the presence of the whole people. So, seized with inspired fury, keeping back the throng of spectators on either side, he slew without a qualm him and her, the man because he listened to lessons which it were a gain to unlearn, the woman because she had been the instructor of wickedness.

(57) This deed suddenly wrought in the heat of excitement acted as a warning to multitudes who were preparing to make the same apostasy.

In Philo's view, the Law of Moses provided cases of capital jurisdiction which had relevance for similar and current conflicts, whether through employing earlier precedents or providing a new precedent for subsequent appropriation, as in the case of the blasphemer (Lev 24:10–16; *Mos.* 2:192–202), in which a new law had to be promulgated because there was no precedent. Here in *Spec.* 1:56–57, we have an illustration of the former case when Philo draws on the precedence of Phinehas' violence against the backslider. Thus, Philo refers to the precedent of this past case to provide a legitimating example recorded in the law (cf. the introductory expression ἀναγέγραπταί τις ἐν τοῖς νόμοις in

§ 56), in order to establish that violent action on the spot is acceptable in the case at hand, and to present an argument which was meant to have a certain effect of deterrence (cf. § 57: “a warning to multitudes who were preparing to make the same apostasy”). In the legal system of precedents, the touchstone of legal consistency is treating like cases alike.³⁶ As we shall see, according to Philo there were correspondences between the precedent of Phinehas and the current case, with regard both to the crime of apostasy and to the appropriate reaction against it.

In the case of the crime recorded in Numbers 25, the sin of the people is depicted as both adultery³⁷ and idolatry. The biblical text states that Zimri commits the first sin, but it does not explicitly mention any sacrificial offering by him. By such additions to the biblical story Philo emphasizes the role of Zimri in *Spec.* 1:56 as “the chief ringleader of the backsliding” and as one who is offering sacrifices in public to images of stone and wood.

With regard to the infliction of the punishment, the persons who are to take action against the transgressors are described in *Spec.* 1:55 as ἅπασι τοῖς ζῆλον ἔχουσιν ἀρετῆς (“all who have a zeal for virtue”). In *Spec.* 1:316, the agents who are supposed to punish the seducers are characterized in a corresponding way as “all the lovers of piety” (πᾶσι τοῖς εὐσεβείας ἐρασταῖς). Philo characterizes the agents further in *Spec.* 1:55 as those who “give full scope to the feelings which possess them, that hatred of evil and love of God which urge them to inflict punishment without mercy on the impious.” An important point here is the ‘emotional emphasis’ of the agents, which also bears some similarity to Philo’s characterization of Phinehas in *Spec.* 1:56 as one who acted with “inspired fury”. Such an emotional reaction comes close to the ζῆλος associated with Phinehas. Hence, the “zeal for virtue” referred to in *Spec.* 1:55, which is the driving attitude behind the action of legal violence to be taken against the apostate, evokes the figure of Phinehas, who is the main figure associated with ζῆλος in Jewish tradition.³⁸ In several other passages, Philo associates violent actions with the performance of ζῆλος (cf. *Leg.* 3:242; *Conf.* 57; *Post.* 183; *Mut.* 108). So, corresponding to the example of Phinehas, the description of Simeon and Levi taking their revenge on Shechem and his people (Gen 34) presents what Philo regards as other precedents of commendable zeal:

36 See Knight 2011, 38–39.

37 The issue of sexual sin made it easy for Philo to use the episode in his remarks about the fight to be fought against pleasure, and this is the explicit context of his use of the Phinehas episode in texts such as *Leg.* 3:242; *Post.* 183; *Mut.* 108, and *Mos.* 1:301–304.

38 Cf. Hengel 2012, 153–229; Seland 1995, 42–72; 126–136.

Then this same tribe, [...] fired with zeal (ζήλω πυρωθεῖσα) by their heart-felt hatred of evil, every man of them filled with rage, frenzied, possessed, took arms as if at one signal, and despising all thoughts of danger mowed down their foes drunk with the twofold intoxication of impiety and wine. [...] This [the existence of Levitical cities] shows that not every kind of homicide is culpable but only that which entails injustice, and that as for the other kinds if it is caused by an ardent yearning for virtue (κατὰ πόθον καὶ ζῆλον ἀρετῆς) it is laudable and if unintentional it is free from blame.

Spec. 3:126–128

Here too, as in the case of Phinehas, a connection is made between the issue of virtue and zeal for the law and the killing of Israelites who became idolaters. Thus, the execution carried out by Simeon and Levi is considered by Philo as legally justified. It must then be regarded as a homicide that is both laudable and free from blame.

What is more, in the case of the false oath in which God's name is used, Philo indicates the presence of zealous persons in Alexandria who were probably ready to take such actions, motivated by their zeal for the Torah. According to Philo, the death penalty will be enforced, either by the hands of men or by divine intervention if the offender evades the chastisements of men. Philo considers that such an escape is unlikely to occur, since "there are thousands who have their eyes upon him full of zeal for the laws (ζηλωταὶ νόμων), strictest guardians of the ancestral institutions, merciless to those who do anything to subvert them" (*Spec.* 2:253).

To sum up my analysis of *Spec.* 1:54–57: the punishment suggested by Philo for betraying the honor due to the One God is death. And the execution should not be entrusted to those responsible for regular court procedures, but should be carried out on the spot. When such transgressions were discovered 'in *flagrante*', the occasion itself would make the witnesses liable to perform all the functions usually carried out by regular court procedures and functionaries. Accordingly, Philo here presents the punishment that is to be inflicted on the offender as a measure of legal violence taken on the spot. He does not, however, state explicitly how these actions were to be carried out. Stoning might have been thought of as the most regular means (cf. *m. Sanh.* 9:6), but any means available at the crucial moment might have been acceptable.

3.3 *The Case of Seduction: De Specialibus Legibus 1:315–318*

Spec. 1:315–318 is a self-contained unit that continues Philo's exposition of the First and Second Commandments, centered on the exhortations to virtue given in Deuteronomy (§§ 299–318). In this text, Philo makes an exegetical para-

phrase of Deut 13:2–12, in which he follows the conventional procedure by which words, phrases, and sentences from the Hebrew Bible are either omitted, repeated, or replaced by interpretative terms and fused together and supplemented with other qualifying terms. The study of Philo's way of rephrasing the biblical text provides clues to how he functioned as "an exegete for his time", expounding the text to communicate with the audience of his own time, who lived in a Diaspora setting in Alexandria in the first century CE.³⁹ In what follows I shall point to some deviations from the biblical text that show that Philo intends to bring into focus distinctive features of the offenders, their crime of seduction, and what he thought, on the basis of Deuteronomy 13, was to be the appropriate punishment for such criminals.

3.3.1 The Crime

(315) καὶν μέντοι τις ὄνομα καὶ σχῆμα προφητείας ὑποδύς, ἐνθουσιᾶν καὶ κατέχεσθαι δοκῶν, ἄγῃ πρὸς τὴν τῶν νενομισμένων κατὰ πόλεις θρησκείαν θεῶν, οὐκ ἄξιον προσέχειν ἀπατωμένους ὀνόματι προφήτου· γόης γὰρ ἄλλ' οὐ προφήτης ἐστὶν ὁ τοιοῦτος, ἐπεὶ δὴ ψευδόμενος λόγια καὶ χρησμούς ἐπλάσατο.

Further if anyone cloaking himself under the name and guise of a prophet and claiming to be possessed by inspiration lead us on to the worship of the gods recognized in the different cities, we ought not to listen to him and be deceived by the name of prophet. For such a one is no prophet, but an impostor, since the oracles and pronouncements are falsehoods invented by himself.

(316) καὶν ἀδελφὸς ἢ υἱὸς ἢ θυγάτηρ ἢ γυνὴ ἢ οἰκουρὸς ἢ γνήσιος φίλος ἢ τις ἕτερος εὖνους εἶναι δοκῶν εἰς τὰ ὅμοια ἐνάγῃ προτρέπων συνασμενίζειν τοῖς πολλοῖς καὶ ἐπὶ τὰ αὐτὰ ἱερὰ καὶ τὰς αὐτὰς σπονδὰς τε καὶ θυσίας ἀφικνεῖσθαι, [...]

And if a brother or son or daughter or wife or a housemate or a friend however true, or anyone else who seems to be kindly disposed, urge us to a like course, bidding us fraternize with the multitude, resort to their temples, and join in their libations and sacrifices, [...]

With regard to the offence of seduction, Philo combines in *Spec.* 1:315–316 Deut 13:2 about the seduction by the false prophets with Deut 13:7–10 and

39 Cf. Borgen 1997, 1–13.

the warning against the danger of seducing family members. Philo deviates here from the biblical text by giving a presentation of the regulations on the actions to be taken against both types of seducers only after his description of the seductive family members. So, as in *Spec.* 1:54, the case of the seductive prophets and family members is introduced in casuistic form, in which the first part—the protasis—specifies the offenders and their specific offence. I shall comment on these aspects in due order.

While Deut 13:1–2 has a threefold description of the seducer as a prophet or a dreamer, who may display signs and wonders, Philo concentrates only on the inspired prophet. In Philo's paraphrastic rendering of Deuteronomy 13, he applies the passage to the situation when a person claims to be an inspired prophet. At this juncture, Philo uses the phrase ἐνθουσιάζω, to be inspired, which elsewhere in his writings denotes the prophetic inspiration.⁴⁰ A central conception of such an inspiration in these texts is the idea that the true prophet is directed by the indwelling of the Divine Spirit. That Philo reckons with the possibility of such inspiration in his own time seems to be affirmed by his own experience of being inspired when working on his exegesis of Scripture.⁴¹ In Philo's warning of a false claim of divine inspiration, the emphasis centers rather on the false message of such prophets and the adequate response to it: if he leads people to worship the gods recognized in the different cities, he is not to be obeyed. Thus, Philo depicts the false prophet as performing deceiving activity (ἀπατάω) and as one who is pretending with intention to deceive, γόης.⁴² This sense of γόης accords well with what Philo affirms here, that is, one who tells falsehoods (ψεύδομαι λόγια). The aim of the deceiving activity on the part of the false prophet and liar is to lead to the crime of idolatry, “to the worship of the gods recognized in the different cities”. That such a ‘leading astray’ to idolatry can come from within the Jewish fold and even within the inner circle of the nearest family is made clear by Philo's elaboration of Deut 13:7–10 in *Spec.* 1:316, to which I now turn.

Philo highlights the issue of idolatry in this paragraph by rephrasing the expression “worship foreign gods” (λατρεύσωμεν θεοῖς ἑτέροις) in Deut 13:7 to “fraternize with the multitude” (συνασμενίζειν τοῖς πολλοῖς). While the verb συνασμενίζω only occurs here in Philo's writings, the following term οἱ πολλοί appears many times, often in association with idolatry. Thus, idolatry seems

40 Cf. *Her.* 258; *Spec.* 1:65.

41 Cf. *Migr.* 34–35. See also Aune 1983, 147–152.

42 The basic meaning of γόης assumed by Philo comes close to the way Josephus uses this word in his report on the sign prophets; cf. Gray 1993, 139–144.

to be typical of “the many”. For example, Moses demands that the one who is registered in the constitution of the Jews should be perfect, “not in lore, in which the many (οἱ πολλοί) are schooled, of divination and voices and plausible conjectures, but in his duties towards god, in which there is nothing doubtful or ambiguous but undoubted, naked truth” (*Spec.* 1:63).⁴³ In Philo’s further elaboration of the idolatrous activity of the multitude, he says that they “resort to their temples and join in their libations and sacrifices.” With regard to the problem of how Jews should interact with their pagan surroundings and participate in a pagan society, there existed various spectrums of thoughts and practices. One problem area was the relation to pagan cults. There was a variety of views among Jews on this issue.⁴⁴ Philo seems to have followed the approach that practiced a limited integration with society at large, and limited idolatry to participation in pagan cults. Although Philo affirmed the participation of a Jew in club life when the object is prudence, he also pointed to the dangerous possibility that such activity could lead to irregularities and participation in idolatry (*Ebr.* 20–29; 95). Sacrifices and libations might also belong to the practice of such gatherings.⁴⁵

To sum up: We have seen that Philo in *Spec.* 1:315–316 interprets parts of Deuteronomy 13 as the judicial basis for the warning against the enticement to serve other gods. He applies the passage to the situation when one who claims to be an inspired prophet, or others, lead people to worship the gods that are recognized in the different pagan cities.

In the next section, I shall comment further on Philo’s exposition of Deut 13:10 and the relevant measures which should be taken against the seducers. As we will observe, his deviation from Deuteronomy 13 seems to sharpen the text to imply execution on the spot without the formality of due process.

3.3.2 The Legal Procedure

(316 continued) [...] κολαστέον ὡς δῆμιον καὶ κοινὸν ἐχθρὸν ὄντα ὀλίγα φροντίσαντας οἰκειότητος καὶ τὰς παραινέσεις αὐτοῦ διαγγελτέον πᾶσι τοῖς εὐσεβείας ἐρασταῖς, οἱ ἀνυπερθέτῳ τάχει ταῖς κατ’ ἀνδρὸς ἀνοσίου τιμωρίαις ἐπιδραμοῦνται κρίνοντες εὐαγὲς τὸ κατ’ αὐτοῦ φονάιν.

43 Cf. further e.g. *Spec.* 1:25; *Decal.* 64; *Gig.* 16.

44 Cf. Sandelin 1991, 109–150; 2012, 1–26.

45 See Stambaugh, 1978, 554–608, esp. pp. 588–590.

[...] we must punish him as a public enemy and general enemy, taking little thought for the ties which bind us to him; and we must send round a report of his proposals to all the lovers of piety, who will rush with a speed which brooks no delay to take vengeance on the unholy man, and deem it a religious duty to seek his death.

I shall concentrate my comments on some aspects of this text which help to clarify Philo's description of the punishment that is to be inflicted upon the seducer.

The seducer must be punished "as a public and general enemy" (κοινὸν ἐχθρόν). Various interpretations have been given of this phrase. For example, Goodenough took it as "a term of reference to these extreme criminals whom the Roman government ordinarily took under its special supervision to make sure they were adequately punished."⁴⁶ He also saw it as "the distinguishing term for crimes reserved for Roman procedure."⁴⁷

According to Seland, Goodenough's view is unconvincing "as he does not substantiate his theory by other sources, nor is it probable when comparing the other instances of this expression in Philo's works. In these latter, Philo seems primarily to use the expression κοινὸν ἐχθρόν as denoting those criminals who were especially disruptive to the Jewish community as a whole."⁴⁸

I do not concur with Seland that Goodenough did not provide support for his view of this phrase. In my view, despite the fact that Goodenough supplies only sparse evidence, he does give some support. This makes the distinction Seland seems to draw between a Jewish and a Roman understanding of the phrase unnecessary; it also avoids what I regard as Goodenough's main point. Let me unfold my reasoning a little further and add some additional evidence in favour of Goodenough's understanding.

Goodenough reads the phrase κοινὸν ἐχθρόν in light of the Roman conception and evidence of *Lex Iulia de vi publica seu privata*.⁴⁹ He identifies this statute as the background of Philo's exposition of stealing in *Decal.* 135–136 and *Spec.* 4:2 and the issue of κοινὸν ἐχθρόν in these texts. Commenting on the former text, Goodenough claims: "In using the phrase κοινὸς πόλεως ἐχθρός Philo must be trying to reproduce the Roman conceptions of *crimen publicum*, *iudicia publica*, and the whole intent of both the *lex Iulia de vi publica* and the decree of

⁴⁶ Goodenough 1968, 79.

⁴⁷ Goodenough 1968, 246.

⁴⁸ Seland 1995, 152.

⁴⁹ Goodenough 1968, 148–151.

Lucullus.”⁵⁰ According to Goodenough, Philo here draws a Roman distinction between the more and less serious types of stealing. The major crime, which makes the offender a public enemy (κοινὸν ἐχθρόν), is that which is done by force and openly, and hence is to be dealt with in public according to Roman law, whereas the lesser theft, veiled in secrecy, carries no threat, and is consequently to be tried in private.

As I will argue, Goodenough’s understanding of the phrase as going back to the statute of *Lex Iulia de vi publica* may also shed light on the two other occurrences of this term in Philo’s works, which, however, Goodenough unfortunately does not comment on from this perspective, viz. *Flacc.* 124, *Spec.* 4:23 and the text we are looking at here. Some further notes on the decree of *vis publica* will be useful.

The *leges Iulia* on *vis*, attested in the *Institutes* of Justinian, like the Theodosian Code, as *lex Iulia de vi publica seu privata*, goes back to the time of Julius Caesar and Augustus respectively, and dealt with various forms of violent crimes.⁵¹ According to J.D. Cloud, there were two *leges Iulia de vi*, one deriving from Caesar and the other from Augustus, probably between 19 and 16 B.C. Each decree depended on its predecessor, back to *lex Lutatia* of 78 B.C.⁵² A distinction was probably made by lawyers in the early second century CE between *vis publica* and *vis privata*, as the former was committed by magistrates or officials and the latter by private persons. Both were offences, and both decrees regulated grave offences against public order, either committed by officials, e.g. treason, sedition and violence against private individuals such as theft, or violence linked with public office or civic duties. *Vis privata* concerned matters such as stealing, assaults, or robbery of different kinds. The penalty for treason was death, while exile or banishment was the normal penalty for the other kinds of offence which fell under the statute of *lex Iulia de vi publica seu privata*.⁵³

Several of these features of *Lex Iulia de vi publica seu privata* accord well with the picture Philo draws in his ‘crimes-and-punishment-report’ on the former Roman governor Flaccus in his treatise *In Flaccum*. Thus, Flaccus is described as a “public enemy” (κοινὸν ἐχθρόν) of the Jewish nation, who now suffers penalties because of the many robberies and the violence he had inflicted on the Jews. Flaccus is said to have “robbed of our city and the buildings within its walls,

50 Goodenough 1968, 148.

51 Cf. Robinson 1995, 28–29.

52 Cloud 1988, 579–595; 1989, 427–465.

53 Robinson 1995, 78–80.

public and private, alone of all men under the sun bereft of home and country through the malignancy of a governor" (*Flacc.* 123–124). That this language of a "public enemy" here applies to a Roman setting, is confirmed by the way Philo depicts Flaccus as one who is brought to justice before a Roman trial and who subsequently receives the penalties normally associated with the Roman *vis publica* committed by magistrates or officials, viz. banishment and exile, leading eventually to death (*Flacc.* 151; 181; 185–191).

Likewise, the Roman procedure of *vis publica* may shed light on the case of rural property damage, which Philo treats under the subject of theft in *Spec.* 4:23. In the case of damage done by causing one's flocks to graze on a neighbour's land, Philo states that the law "has not punished him as a public enemy (κοινὸν ἐχθρόν) by sentencing him to death or banishment, or at the very least to forfeiture of his whole property, but merely called upon him to make good the damage to the owner" (*Spec.* 4:23). At this juncture, it seems that the terminology of a "public enemy" and the penalty ascribed in Exod 22:5 for such a case have been interpreted by Philo in the light of the various kinds of penalties categorized under the statute of *vis publica*.

Although Goodenough never commented on *Spec.* 1:316, he hinted at a possible understanding of this text, when he drew the following conclusion about Philo's other employments of κοινὸν ἐχθρόν:

And the discussion throws much light upon the fact that Philo frequently called by this same ominous term other crimes which deserved the death penalty, to be assigned judicially by the Romans, but frequently in practice extra-legally by the Jews.⁵⁴

If this quotation represents Goodenough's understanding of κοινὸν ἐχθρόν in *Spec.* 1:316, what might it have been? A reasonable suggestion might be that Philo uses this terminology to emphasize that the penal reaction to the public crime of seduction was capital punishment, normally executed by the Roman authorities within the jurisdiction of the Roman Law. So, in an incident where the criminal was perceived to be punished as a "public enemy", we might infer that such a case should be handed over to the Roman authorities for further process and sentence, as was also customary in the provincial jurisdiction.⁵⁵ This procedure, then, seems to explain why Philo is asking Jews, in the case of a criminal Jew, to take matters into their own hands. The immediate con-

⁵⁴ Goodenough 1968, 151.

⁵⁵ On the 'plurality' of provincial jurisdictions in the Roman Empire, see the next chapter.

text of *Spec.* 1:316 may substantiate such an understanding. Here, Philo's words indicate that he does not have the Roman authorities in mind as subjects of the repressive measures to be taken against the seducer, but that his injunction is to be understood as an admonition "*to all lovers of piety*" to kill the seducer, keeping the execution in their own hands. Hence, even in a case where the Jewish criminal ought to be punished as "public enemy" under Roman jurisdiction, the appropriate legal action to be taken should not be the official repressive measure exercised by the Roman authorities, but the penalty of the kind categorized as lynch law inflicted on a Jew by Jews. Thus, the death penalty called for in the case of a crime committed by a "public enemy" would normally, as Goodenough suggested, be "assigned judicially by the Romans, but frequently in practice extra-legally by the Jews", when the public enemy was a Jew. In such instances as those described both in *Spec.* 1:315–318 and in *Spec.* 1:54–57, it is plausible, as Goodenough further reasons, that "the very fact that Philo despairs of settling the matter by any legal process whatever makes the reality [...] irresistible."⁵⁶

According to Philo, one must not consider the family ties that may exist as a hindrance to the offender's punishment. One must take his life as soon as possible. This is most clearly borne out by Philo in what follows: καὶ τὰς παραινέσεις αὐτοῦ διαγγελέον πάνσι τοῖς εὐσεβείας ἐρασταῖς [...] ("and we must send round a report of his proposals to all the lovers of piety [...]"). The text that lies behind this formulation is Deut 13:10, which in its Septuagintal form reads: ἀναγγέλλων ἀναγγελεῖς περὶ αὐτοῦ αἱ χεῖρές σου ἔσονται ἐπ' αὐτὸν ἐν πρώτοις ἀποκτεῖναι αὐτόν [...] ("reporting, you shall report concerning him, and your hands shall be the first against him to kill him [...]"). In his exegetical paraphrase of Deut 13:2–12, Philo does not mention the stoning referred to in Deut 13:10, and his exposition of how the punishment is to be carried out seems more to be centered on the Greek LXX expression ἀναγγέλλων ἀναγγελεῖς. The most natural interpretation of the Masoretic text and the translation of the LXX is to take the OT expression as an injunction to report the seducer to the authorities (cf. also the procedure reflected in Deut 17:2–8). As Seland has observed, in Philo the relevant expression has been changed to διαγγελέον πάνσι τοῖς εὐσεβείας ἐρασταῖς, who are then supposed to take immediate action.⁵⁷ As there seems to be no good reason to interpret this as a description of the authorities, Philo's interpretation of this expression seems more appropriate as a call for capital punishment. This, however, is not to be carried out by the

⁵⁶ Goodenough 1968, 34.

⁵⁷ Seland 1995, 153–154.

Roman authorities, but rather about legal violence exercised on the spot. This notion of killing apostates and seducers on the spot justified as a religious duty (κρίνοντες εὐαγές τὸ κατ' αὐτοῦ φονᾶν) is affirmed by the assignment of “religious duty” (εὐαγές) to people in *Spec.* 3:96 (“who should hold it a religious duty to keep their punishment in their own hands and not commit it to others”), which seems to envisage a case where it was perceived as legally legitimate to execute the punishment without handing the offender over to any officials who were responsible for regular trials and court procedures.⁵⁸

The text of Deut 13:6 does not state explicitly how the false prophet is to suffer death (ἐκεῖνος ἀποθανεῖται), but only that he is to be done away with (καὶ ἀφανιεῖς τὸν πονηρὸν ἐξ ὑμῶν αὐτῶν). The text of Deut 13:11, however, clearly prescribes the punishment of stoning for the other seducers (cf. the expression καὶ λιθοβολήσουσιν αὐτὸν ἐν λίθοις, cf. also the phrase καὶ λιθοβολήσετε αὐτοὺς ἐν λίθοις in Deut 17:5, where stoning is presented as the punishment for idolatry). In his exegetical paraphrase of Deut 13:2–12, Philo omits any reference to the stoning referred to in Deut 13:10, and in his exposition of how the punishment is to be carried out, he has no explicit injunction as to how the seducer is to be killed. This might therefore be another instance in which Philo despairs of settling the matter by any regular process, in order to emphasize the legal violence that is to be inflicted immediately in cases like the one he describes in *Spec.* 1:54–57 and *Spec.* 1:315–318.

In *Spec.* 1:317–318, Philo gives a further motivation for the action of immediate violence on the spot, which he recommends:

(317) ἔστω γὰρ ἡμῖν μία οἰκειότης καὶ φιλίας ἐν σύμβολον ἢ πρὸς θεὸν ἀρεσκεία καὶ τὸ πάντα λέγειν τε καὶ πράττειν ὑπὲρ εὐσεβείας· αἱ δ' ἐκ προγόνων ἀφ' αἵματος αὐταὶ λεγόμεναι συγγένειαι καὶ αἱ κατ' ἐπιγαμίας ἢ τινας ἄλλας ὁμοιοτρόπους αἰτίαις οἰκειότητες ἀπορριπτέσθωσαν εἰ μὴ πρὸς τὸ αὐτὸ τέλος ἐπέιγονται, τὴν τοῦ θεοῦ τιμὴν, ἢ πάσης ἐνωτικῆς εὐνοίας ἄλυτος δεσμός ἐστιν· ἀντιλήψονται γὰρ οἱ τοιοῦτοι σεμνοτέρας καὶ ἱεροπρεπεστέρας συγγενείας.

For we should have one tie of affinity, one accepted sign of goodwill, namely the willingness to serve God and that our every word and deed promotes the cause of piety. But as for these kinships, as we call them, which have come down from our ancestors and are based on blood-relationship, or those derived from intermarriage or other similar causes, let them all be cast aside if they do not seek earnestly the same goal,

58 Cf. John 16:2.

namely the honor of God, which is the indissoluble bond of all the affection which makes us one. For those who are so minded will receive in exchange kinships of greater dignity and sanctity.

(318) βεβαιούται δέ μου τὴν ὑπόσχεσιν ὁ νόμος λέγων, ὅτι οἱ “τὸ ἀρεστὸν” τῇ φύσει δρώντες καὶ “τὸ καλὸν” υἱοὶ εἰσι τοῦ θεοῦ, φησι γάρ· “υἱοὶ ἐστε κυρίῳ τῷ θεῷ ὑμῶν”, δηλονότι προνοίας καὶ κηδεμονίας ἀξιοθησόμενοι τῆς ὥς ἐκ πατρός· ἡ δὲ ἐπιμέλεια τοσοῦτον διοίσει τῆς ἀπ’ ἀνθρώπων, ὅσον περ, οἶμαι, καὶ ὁ ἐπιμελούμενος διαφέρει.

This promise of mine is confirmed by the law, where it says that they who do “what is pleasing” to nature and what is “good” are sons of God. For it says, “Ye are sons to your Lord God,” clearly meaning that He will think it fit to protect and provide for you as would a father. And how much this watchful care will exceed that of men is measured, believe me, by the surpassing excellence of Him who bestows it.

Some observations can be briefly made regarding this passage. First, Philo emphasizes his understanding of the really significant kinship (οἰκειότης) that is to be kept and retained even at the loss of relationship based on blood. Second, the willingness to serve God is thus to be the primary tie of affinity. Third, Philo gives a proof from Scripture for the better kinship that God will confer upon those who will honor him, by means of a juxtaposition of Deut 13:19 and 14:1. According to Philo, these Scriptures promise that divine kinship will be given in exchange for human kinship, which means that those who do “what is pleasing” and “good”, according to the precepts of Torah, will receive the protection and providence of God and will have God as their caring “father”. As Seland puts it: “The confirmation from Scripture is thus anchored in the essence of God himself, and the abundance of his care is grounded in the fact of his being the one and only living God.”⁵⁹

To sum up: We have seen that Philo in *Spec.* 1:315–318 legitimates his understanding of legal violence against seducers in many ways: 1. He legitimates the violent reactions on the basis of the Law, as an exposition of Deuteronomy 13. 2. Philo’s paraphrastic exposition of this text sharpened Deut. 13 to imply execution on the spot without recourse to a regular process. Thus, since the offender is a “public enemy” of the Jewish community, he is not to be referred to the Roman authorities for regular trial. 3. Philo’s emphasis is on the principles of

59 Seland 1995, 160.

loving God, and on doing what is pleasing and good according to the Law in preference to other human beings, in cases of potential conflicts. 4. Finally, Philo gives a proof from Scripture (by means of a juxtaposition of Deut 13:19 and 14:1) in support of the better kinship that God will confer upon those who will honor him in this way.

4 Jesus on 'Trial' According to John

According to Asiedu-Peprah, the claim made by some scholars that the Jewish 'trial' allowed the man's accuser to also be a judge, appears to be "a legal monstrosity" which had no documentation and lacked precedent in Jewish legal procedure.⁶⁰ However, this assertion by Asiedu-Peprah fails to take into consideration the distinction between a formal 'trial' and a non-institutional forensic setting, in which the offender would be prosecuted, convicted, and executed on the spot. On a judicial level, Philo's writings lend support to the view of Harvey, *pace* both Lincoln and Asiedu-Peprah, that when Jews publicly violated the Torah or did not conform to the established Jewish customs, they were in real danger as objects of hostility, censure, and even execution on the spot by the Jewish milieu. Philo thinks, as we have seen, that an extra-legal measure such as lynch law is in certain circumstances comparable to a due process. In the light of Philo's approval of the application of lynch law against certain violaters of the Torah, John's records of the attempts on Jesus' life may offer illustrations of such cases. Thus, the Philonic texts provide a cultural context for John's portrayal of an informal procedure against Jesus, encompassing charges set forth against the crimes committed followed by immediate attempts to kill him on the spot, without an official trial. In what follows, I shall present a closer scrutiny of the relevant Johannine texts, centered on such forensic features.

4.1 *The Case of Violation of the Sabbath: John 5:1–18*

In this section I shall examine in more detail the crime committed and the legal procedure involved according to John 5:16–18.

60 Asiedu-Peprah 2001, 22. See particularly his opposition to Harvey's theory (1976, 22): "Harvey claims that the Jewish procedure allowed the man's accuser to also be his judges. [...] However, he does not offer any documentation to substantiate his claim, which, in my view, is untenable."

4.1.1 The Crime

In John 5, the crime of breaking the Sabbath is formulated in the following two clauses:

[...] because (ὅτι) he was doing these things on the Sabbath (ταῦτα ἐποίει ἐν σαββάτῳ).

John 5:16

[...] because (ὅτι) he not only broke the Sabbath (ἔλυνεν τὸ σάββατον) but was also calling God his own father, making himself equal to God.

John 5:18

It has been discussed whether the pronoun ταῦτα in John 5:16 refers to the healing of the man or to the act of carrying the mat. The latter act is evidently against the practice of Jewish Sabbath halakha, whereas it has been regarded as more uncertain whether the healing as such would have been perceived as breaking the Sabbath.⁶¹ It is my view that both actions were seen as unlawful by the 'Jews'. Firstly, the preceding v. 15 that tells about the man who informed the 'Jews' that it was Jesus who healed him, suggests that the pronoun refers to the healing of the lame man. Likewise, the following v. 17 refers to the "work" of Jesus, which in the light of the parallel words of John 9:4, referring to another healing taking place on the Sabbath ("We must work the works of him who sent me while it is day"), seems to allude to the healing activity of Jesus. Moreover, the fragmentary reference in John 7:21–23 to the same incident as in John 5, clearly points out that it is the healing of the lame man which is the deed Jesus has done on the Sabbath (ἐν ἔργον ἐποίησα, 7:21). Secondly, the narrative in vv. 1–15 suggests that the carrying of the mat is the real crime which is committed. Thirdly, that both the actions of healing the lame man and the carrying of the mat can be regarded as abrogating the Sabbath halakha seem to be supported by the use of the verb λύω in v. 18 in the light of Philo, *Migr.* 91. In this paragraph Philo refers to fellow Jews who search for the inner meaning of the Sabbath to such an extent that they abrogate its external observance:

It is quite true that the Seventh day is meant to teach the power of the Unoriginate and the non-action of created beings. But let us not for this reason abrogate (λύωμεν) the enactments laid down for its observance,

61 Regarding the discussion of this issue, see Back 1995, 151 n. 18; Doering 1999, 468–475; Hakola 2005, 119.

and light fires or till the ground or carry loads or demand the restoration of deposits or recover loans, or do all else that we are permitted to do as well on days that are not festival days.

Migr. 91

In the light of this Sabbath halakha, it seems clear that carrying the mat in John might be seen by the 'Jews' as an abrogation of the prohibitions of carrying loads on the Sabbath. In a similar way, they accuse Jesus because the healing on the Sabbath might have been considered in general terms as breaching the prohibition of doing things on the Sabbath that one is permitted to do on days that are not festival days. That such a basis rule was applied to the criticism of Jesus' healing on the Sabbath is evident from Luke 13:14: "There are six days on which work ought to be done; come on those days and be healed, and not on the Sabbath day."

By means of the statement in vv. 17–18, John gives a cosmic interpretation of Jesus' breaking of the Sabbath, which the 'Jews' may have perceived as an intensification of the Sabbath crime. Let me explain what I mean. By justifying of his work of healing on the Sabbath in v. 17, Jesus calls attention to the idea that God is always active in his providential care for the world, even on Sabbaths, on the basis of the exegesis of Gen 2:2–3. These verses caused a problem in Jewish circles, since they state that God rested on the Seventh Day, although God can never cease to be active. Already Aristobulus dealt with the problem: "Thus God's resting does not imply, as some suppose, that God ceased from activity; for being good, if he should ever cease from doing good, then would He cease being God [...]"⁶² Philo's formulations give a solution to this Jewish debate.⁶³ In *Leg.* 1:6 Philo, relying on the Septuagint rendering, notices that Gen 2:2–3 reads κατέπαυσεν, which he understands to mean "caused to rest" that which, though actually not in operation, is apparently making, but He Himself never ceases making.' In *Cher.* 86–90 we find the principle expressed that God alone keeps festivals such as the Sabbath in the true sense:

And therefore Moses often in his laws calls the Sabbath, which means 'rest', God's Sabbath, not man's [...] For in all truth there is but one thing

62 Fragment 5b in Clement, *Strom.* 6:16.141.7b. Greek text and English translation in Holladay 1995, 182–183.

63 Rabbinic versions of the same issue are found in a whole series of statements, e.g., in *Gen. Rab.* 30:11; *Exod. Rab.* 30. Cf. Dodd 1953, 321–322; Barrett 1978, 213.

in the universe which rest, that is God. But Moses does not give the name of rest to mere inactivity. The cause of all things is by its nature active; it never ceases to work all that is best and most beautiful. God's rest is rather a working with absolute ease, without toil and without suffering.

Cher. 87

Thus, according to Philo, God has his own 'divine Sabbath halakhah' and his own divine way of observing the rest on Sabbath, which does not stand in tension with his work of divine providence in upholding the world. When John in v. 17 applies this idea to the providential care of Jesus ('My Father is working still, and I also am working') expressed through his healing of the lame man on the Sabbath, it is immediately apparent to the 'Jews' that Jesus not only robs God of his divine prerogative, but also in this way intensifies the breaking of the Sabbath. This is expressed both in the charge against Jesus that he is making himself equal to God and in their violent reaction against Jesus according to v. 18: 'For this reason (διὰ τοῦτο) the Jews were seeking all the more (μᾶλλον) to kill him, because (ὅτι) he not only broke the Sabbath but was also calling God his own father, making himself equal to God.' What is the function of the phrase διὰ τοῦτο οὖν μᾶλλον in this context? It is usually interpreted to indicate that the new offence of blasphemy was considered as an additional crime to the violation of the Sabbath, which reinforced the Jews' persecution and their determination to have Jesus killed.⁶⁴ However, I take the adverb μᾶλλον to be directly connected to the preceding v. 17 and the apparent Sabbath crime in the following way: to the 'Jews', Jesus' offence of claiming a divine prerogative adds another aspect to the violation of the Sabbath, and makes the Sabbath breaking even more outrageous to them than the deed on its own. Thus, according to the 'Jews', Jesus, by relating his own activity on the Sabbath to the unceasing activity of God himself, had increased or 'doubled' his crime of violating the Sabbath by adding another aspect to it.⁶⁵ In support of this exposition of John 5:17–18, I shall again draw attention to Philo's juridical exposition of the 'double' crime of the Sabbath-breaker in *Mos. 2:213–220*, which provides an interesting parallel that has been overlooked by interpreters of John's Gospel. As I noted above, the crime of gathering firewood on the Sabbath was "the perfection of wickedness, and covered practically all the prohibitions enacted for the honouring of the

64 Cf. Schnackenburg 1980, 2.38, 102.

65 One may just wonder whether these two aspects of Jesus' crime of breaking the Sabbath might be the reason why John does not explicitly denote Jesus' crime of claiming a divine prerogative as blasphemy here.

seventh day" (*Mos.* 2:218). This was the case, since Philo made use of a tradition which interpreted the gathering of the sticks used to make a fire with the fire itself:

And his was a double crime; it lay first in the mere act of collecting, in defiance of the commandment to rest from work, secondly in the nature of what he collected, being materials for fire which is the basis of the arts.

Mos. 2:220

Here a connection is made between the crime of gathering of sticks, which (according to Philo) was in itself unlawful in the light of the commandment to rest (*Exod* 20:10), and the prohibition of lighting fires (*Exod* 35:3). This connection leads Philo to give a cosmic interpretation of collecting firewood for the use of making fire, which was interpreted symbolically to mean the ground of all arts and which covered practically all the prohibitions enacted in order to honour the Sabbath. Thus, the gathering of firewood implied that the Sabbath-breaker intensified his crime: by picking up firewood made for lighting a fire, he not only broke the commandment to rest, but also infringed the prohibitions against all the other activities as well, since in the nature of what he collected, the fire was the cause of all those particular activities and occupations. In this way, both John and Philo can give a cosmic interpretation of the crime committed on the Sabbath in a way that could be perceived as intensifying the aspect of violation. For Philo, however, the picking up of the sticks points towards all other infractions of the same kind, whereas John seems to be talking about Jesus' Sabbath violation and his claiming godlikeness, which are infractions of different kinds.

4.1.2 The Legal Procedure

In this section, I will consider the punitive measures reflected in *John* 5:16–18 within the cultural context of lynch law, and the aspects of censure and plotting against potential non-conformists attested by Philo's writings.

As we noted above, in a situation in which a person was discovered as a violator of the law 'in *flagrante*', Philo advocated that the prosecutors could initiate proceedings themselves without bringing the case to a formal court.⁶⁶ The possibility of carrying out such an immediate action is formulated in *Spec.* 1:55: 'And it is well that all who have zeal for virtue should be permitted to

⁶⁶ Compare Harvey 1976, 64: "[...] the assembled experts constitute themselves a 'court' competent to pronounce verdict and sentence."

exact the penalties offhand and with no delay'. A similar statement is found in *Spec.* 3:96, a passage which deals with the actions taken against magicians and poisoners: "And therefore it is right that even the most reasonable and mild-tempered should seek the blood of these, that they should lose hardly a moment in becoming their executioners [...]". This seems to be the situation envisaged in John 5:16–18, in which Jesus' 'double' crime of breaking the Sabbath provoked the Jews to take immediate action against Jesus. This implied that they played the triple role of witnesses, accusers and executioners: καὶ διὰ τοῦτο ἐδίωκον οἱ Ἰουδαῖοι τὸν Ἰησοῦν, ὅτι ταῦτα ἐποίει ἐν σαββάτῳ ("Therefore the Jews started persecuting Jesus, because he was doing such things on the sabbath"). Thus, Harvey's words about the legal procedure reflected in this text have more validity in the light of Philo's theorizing about a lynch law without regular process:

No group of responsible and earnest Jews could let this pass: on the face of it, Jesus had repeatedly broken the third commandment, and they would be failing in their duty if they did not see to it that the offender was convicted and punished. As already explained, it was not necessary for them to bring the case before a formal court: they were competent to initiate proceedings themselves.⁶⁷

Such an understanding of the legal procedure seems also to be confirmed by a closer reading of John 5:16 in its immediate context, which shows that the Jews bring a charge against Jesus and on this ground attempt to kill him, seemingly without reference to any formal regular process. The word διώκω used in John 5:16, often translated as "persecute", as for instance in the translation of *NRSV*, can also bear the meaning "bring a charge against", or "prosecute."⁶⁸ Either meaning may coincide and be present in John 5:16 when interpreted in its literary context. Hence, the meaning might be that Jews put Jesus immediately 'on trial', prosecuting him and enforcing the execution on the spot for the crimes of his Sabbath breaking, or as Harvey put it: "The Jews had observed Jesus apparently, breaking the law, and it was their religious duty to bring a charge against him, to convict him and to punish him."⁶⁹

Such an understanding receives support from Philo's view that in certain circumstances the occasion itself would make the witnesses liable to perform

67 Harvey 1976, 50.

68 Liddell and Scott 1985, 207.

69 Harvey 1976, 51.

all the functions usually carried out in the context of a regular trial (“They should think that the occasion has made them councillors, jurymen, high sheriffs (στρατηγούς), members of assembly, accusers, witnesses, laws, people, everything in fact [...]” *Spec.*1:55).

Or, if one translates διώκω as “persecute”, the subsequent reaction and punishment following the crime committed would be the same: in other words, the “persecution” of Jesus meant that the Jews took action with the aim of executing him on the spot.⁷⁰ Such an assumption might be supported by the fact that many manuscripts (e.g., A, Q, Y, and the majority text) add the phrase ἐξήτουν αὐτὸν ἀποκτείνειν to v. 16. Moreover, it is clear that the Jews’ persecution had already been ‘deadly’, for in v. 18 the narrator comments that “the Jews were seeking *all the more* to kill him”.⁷¹ The narrator uses verbs in the imperfect in vv. 16 and 18 to describe both the immediate and constant response of the ‘Jews’ and Jesus’ action on the Sabbath (v. 16: ἐδίωκον οἱ Ἰουδαῖοι τὸν Ἰησοῦν; ταῦτα ἐποίει ἐν σαββάτῳ; v. 18: ἐξήτουν αὐτὸν οἱ Ἰουδαῖοι ἀποκτείνειν; ἔλυνεν τὸ σάββατον). These verbs in the imperfect indicate the connection and correspondence between the crimes and the immediate efforts to inflict a penalty on Jesus.⁷² The constant determination on the part of the Jews to kill Jesus leads in John 8:59 and 10:31 to the efforts to stone Jesus on the spot. Obviously, they have determined the verdict at its outset and do not accuse him in a court or attempt to stone him after a formal verdict and court sentence.

According to some scholars, the reaction of the Jews against Jesus in John echoes scriptural Sabbath legislation rather than any first-century praxis.⁷³ Thus, as I pointed out above, Philo sketches in *Migr.* 86–89 a situation that could genuinely happen to potential Jewish non-conformists in the first century CE, akin to that described in John when the ‘Jews’ held that Jesus was abrogating the customs of the Sabbath halakha, and therefore charged him and threatened to kill him. Philo also provides comparative material to the way in which exegesis of the Laws of Moses, such as Gen 2:2–3 in John 5:1–18, was a

70 Cf. Lindars 1972, 218.

71 Cf. Smith 1999, 134.

72 Pace Asiedu-Peprah (2001, 79), who maintains that the death threat in John 5:18 “does not constitute a sentence, but an intended action whose implementation depends essentially on the response of the accused to the accusation being levelled against him. In other words, the intended sanction, in a juridical controversy, is still subject to the defence of the accused after which it may either be confirmed or refuted.” However, the plain remark of John, “they sought all the more to kill him”, does not fit well with this idea of a juridical controversy.

73 See e.g., Sanders 1990, 16–19; Asiedu-Peprah 2001, 79; Hakola 2005, 124.

factor in the controversy between the synagogue and the emerging Christian community.⁷⁴ Philo gives in *Migr.* 91 the following advice and warning against those who draw wrong conclusions from the circumstance that God is active on the Seventh Day, as stated in Gen 2:2–3 according to Jewish exegesis:

It is quite true that the Seventh day is meant to teach the power of the Unoriginate and the non-action of created beings (cf. Gen 2:2–3). But let us not for this reason abrogate the enactments laid down for its observance, and light fires or till the ground or carry loads or demand the restoration of deposits or recover loans, or do all else that we are permitted to do as well on days that are not festival seasons [...] If we keep and observe these, we shall gain a clearer conception of those things of which these are the symbols; and besides that we shall not incur the censure of the many and the charges they are sure to bring against us.

Migr. 91 has points of similarities with John 5:1–18. In both passages, the exegesis of Gen 2:2–3 is presupposed and utilized, although this Hebrew Bible passage is not quoted, and is therefore not interpreted explicitly. In both passages, the Scripture is applied to specific controversies related to Sabbath observance. The Sabbath gives witness to the understanding that God is always active. This understanding is what matters. Thus, according to the consistent allegorizers against whom Philo is arguing, there is freedom with regard to the specific observances, such as the prohibition against carrying a load. In John 5:10, the load is the mat carried by the one healed. Moreover, the charge against Jesus because of the healing on the Sabbath might have been considered in general as an overriding of the prohibition of doing on the Sabbath what the Jews “are permitted to do as well on days that are not festival seasons” (*Migr.* 91). That such a basis rule was applied to the criticism of Jesus’ healing on the Sabbath is evident from Luke 13:14: “There are six days on which work ought to be done; come on those days and be healed, and not on the Sabbath day.”

4.2 *The Case of Blasphemy: John 5:18; 10:33, 36*

4.2.1 The Crime

W.A. Meeks has observed that John 5:18, 10:33, and 19:7 employ a similar formulation of the charges attributed to the Jews against Jesus. In each case, the verb ποιέω with the reflexive pronoun and the parallelism of the predicates of each sentence ἴσος τῷ θεῷ (“equal to God”), θεός (“God”), and υἱὸς θεοῦ (“son of God”)

⁷⁴ See Borgen 1996a., 105–120.

signal the crime of Jesus.⁷⁵ As a supplement to this observation it should be noted that these texts follow a common formulation of the punishment and the subsequent charges of the crime committed. In John 5:16, 18 the punishment is introduced by the prepositional phrase διὰ τοῦτο, while the use of the causal conjunction ὅτι in John 5:16; 18, 10:33 informs the reader about the charges of crimes which are the ground for the penal reactions. The same forms can be found in other texts formulating the crimes and the corresponding punishments, such as in Philo, *Flacc.* 171–172, Rev 18:7–8, and Rom 1:25–27.

Although John 5:18 does not use any of the words for blasphemy about Jesus' claiming of a divine prerogative, it is apparent on the ground of the accusation of the 'Jews' and their violent response that they have considered his words as blasphemous, "making himself equal to God."⁷⁶ In John 10:33, the charge is the same as in 5:18, but here we find the word for blasphemy used for the first and only time in John: "[...] but for blasphemy (βλασφημία), because (ὅτι) you, being a man, make yourself God." In John 10:36 Jesus asks why the 'Jews' accuse him of blasphemy on the ground that he claims to be Son of God: "[...] can you say that the one whom the Father has sanctified and sent into the world is blaspheming (βλασφημέω) because I said, 'I am God's Son'?" Do the notions of blasphemy reflected in John have any verisimilitude in the Jewish cultural context of the first century CE? The answer seems to be in the affirmative. It has proved difficult to comprehend the references in the Gospel of John under what is known of the Jewish law concerning blasphemy. Thus, for example, R.E. Brown states that "we are handicapped by lack of evidence as to what constituted blasphemy according to the Jewish law of this period."⁷⁷ According to the regulation prescribed in *m. Sanh.* 7:5, the blasphemer is not culpable unless he pronounces the Name (the Tetragrammaton) itself. Such a teaching was most probably not in force in the first century CE. D. Juel states the problem of seeing this second-century conception of blasphemy as an appropriate reflection of early first-century legal standards: "Most scholars insist, therefore, that the legal definition of blasphemy must have been considerably broader in the first century. The difficulty with such proposals is the lack of source mate-

75 Meeks 2002, 92.

76 It has often been noticed that Philo in many texts uses expressions close to John 5:18. The notion that no one is equal to God is particularly prominent and finds expression in several passages. Philo says that "there is nothing equal to him" (οὐδὲ ἴσον αὐτοῦ) (*Sacr.* 92), or that "God is equal to Himself and like Himself" (ἴσος γὰρ αὐτὸς ἑαυτῷ καὶ ὁμοῖος ὁ θεός) (*Aet.* 43), or "there is nothing equal or superior to God" (οὔτε δὲ ἴσον οὔτε κρείσσον ἐστὶ θεοῦ) (*Leg.* 2:3). Cf. e.g. McGrath 2001, 93; Hakola 2005, 127.

77 Brown 1966–1970, 1.408.

rial for reconstructing legal practice prior to AD 70.⁷⁸ However, some recent studies of the notion of blasphemy in Philo's writings have suggested that a broader understanding of blasphemy is documented in source material from the first century CE. This indicates that the charges made against Jesus by the 'Jews' in John have some verisimilitude and plausibility in their cultural Jewish context.⁷⁹ Since the Philonic texts I have in mind have not been drawn upon in the study of the relevant Johannine passages, I will briefly point out their relevance for such a comparison.

In his writings *Legatio ad Gaium* and *De Somniis*, Philo applies the words βλασφημέω or βλασφημία to mean a specific kind of insult of God, viz. the human arrogating and usurpation of a divine status to himself. This particular kind of blasphemy compromises the Jewish affirmation that only the God of the Jewish people is divine. Such evidence seems to provide a cultural context for the meaning of blasphemy in John, according to which Jesus as a human being is charged by the Jews with making himself God or equal to God by claiming for himself divine prerogatives.

In *Legat.* 353 Philo describes the meeting the Jewish delegation had with the emperor Gaius Caligula. Philo reports how Gaius first addressed the Jews in the following way: "Are you the god-haters who do not believe me to be a god, a god acknowledged among all the other nations but not to be named by you?". After the Jews had refuted accusations brought by the Alexandrian opponents who were present (that they refused to offer sacrifices of thanksgiving to the emperor), Gaius replied: "Allright, that is true, you have sacrificed, but to another, even if it was for me; what good is it then? For you have not sacrificed to me" (*Legat.* 357). Gaius finishes his complaints about the Jews with the remark that "they seem to me to be people unfortunate rather than wicked and to be foolish in refusing to believe that I have got the nature of a god" (*Legat.* 367). In his response to this experience, Philo characterizes it as "torture, the racking of the whole soul through the blasphemies (βλασφημίαι) against God and the menaces launched upon us by this mighty despot" (*Legat.* 368). Apparently the most serious insult was the claim of Gaius to be god himself and the expectation that the Jews should offer sacrifices to him as such.⁸⁰ This kind

78 Juel 1977, 97–98.

79 Collins 2004, 379–401, esp. pp. 386–390; Bock 1998, 203; 2007, 61–122, esp. p. 79 n. 62.

80 Cf. *Legat.* 75, where Philo says, with regard to Gaius, that "sooner could God change into a human being than a human being into God." Cf. also *Virt.* 171–172, which the translator L. Cohn takes to allude to Gaius: "[...] the arrogant man is always filled with the spirit of unreason, holding himself, as Pindar says, to be neither man nor demigod, but wholly divine, and claiming to overstep the limits of human nature."

of blasphemy on the part of Gaius obviously ignores the Jewish belief that only the God of the Jewish nation is divine, and that the Jews were expected to avoid worshipping any other gods than the only one and true God.

The second text, *Somn.* 2:130–132, which is analogous to the passage about Gaius, involves an unnamed Roman governor of Egypt. Philo reports that this governor tried to persuade the Jews to do away with the Sabbath and asked that he be served on that day as well. Philo reacts by asking:

What shall we say of one who says or even merely thinks these things? Shall we not call him an evil thing hitherto unknown: a creature of a strange land or rather one from beyond the ocean and the universe—he who dared to liken to the All-blessed his all-miserable self?

Somn. 2:130

Philo further characterizes him as one who would not hesitate

Would he delay to utter blasphemies (βλασφημέω) against the sun, moon and the other stars, if what he hoped for at each season of the year did not happen at all or only grudgingly, if the summer visited him with scorching heat or the winter with a terrible frost, if the spring failed in its fruit-bearing or the autumn showed fertility in breeding diseases?

Somn. 2:131

Philo concludes: “[...] being a man he conceives himself to have been made superior to other living creatures” (*Somn.* 2:132). This shows the application of the term βλασφημέω to a human being who claims an authority and power that, according to Philo, are reserved for the God of Israel.

In sum, it is likely that in John the ‘Jews’ defined blasphemy broadly enough, like Philo in his portrayals of Gaius and the unknown Egyptian governor, to have considered Jesus’ words as an encroachment upon divine prerogatives and a usurpation of a role inappropriate to his status as a human being. Thus, the notion of blasphemy attested by Philo illustrates most likely the Jewish environment and provides the cultural script for understanding the reactions to Jesus and to his claims in John to be of heavenly provenance.⁸¹

81 Pace Hakola 2005, 127, who maintains that “it may be impossible to tell whether this response reflects the opinion of some actual Jews in John’s surroundings or just John’s expectations of what the response to the claims made for Jesus would be like.”

4.2.2 The Legal Procedure

A Jewish legal procedure seems to be followed in John with regard to the stoning of Jesus. In these cases (John 8:7, 59; 10:31–33), the witnesses themselves begin the stoning according to the penalty prescribed in the Torah. Thus, for example, Bauckham claims that “witnessing the crime themselves, the members of the court are stirred to immediate implementation of the penalty the Torah demands. Their zeal leads them to ignore the need to refer the matter to the governor.”⁸² At least on a theoretical level, Philo seems to corroborate such an interpretation.

Whether or not stoning as the mode of execution reflects a first-century Jewish practice, we may presume at least that the attempts on Jesus’ life in John take place in accordance with the scriptural legislation on Sabbath-breaking and blasphemy, in which stoning was seen as the mode of execution. Philo attests to an exposition along these lines.⁸³ In *Mos.* 2:192–208, Philo treats Lev 24:10–16 in a discussion of Moses as a prophet. He starts with the kind of prophecy in which Moses asks questions of God and receives answers in the form of a divine voice. In the first case, Philo interprets Lev 24:11 to mean that the man cursed God (*Mos.* 2:196). According to Philo, this incident demanded the promulgation of a new law, an allusion to Lev 24:15–16. Moreover, Philo, probably because of the man’s Egyptian origin on his father’s side, interprets the cursing to refer also to the gods of other peoples, in order to ensure that the Israelites should avoid insulting the God of Israel:

For the world as we know it is full of idols of wood and stone, and suchlike images. We must refrain from speaking insultingly of these (βλασφημία) lest any of Moses’ disciples get into the habit of treating lightly the name ‘god’ in general, for it is a title worthy of the highest respect and love. But if anyone, I will not say insults (βλασφημέω) the Lord of gods and men, but even ventures to utter His name unseasonably, let him suffer the penalty of death.⁸⁴

Mos. 2:205–206

⁸² Bauckham 1999, 219–220.

⁸³ According to Weiss (1991, 104–105) and Leonhardt (2001, 71) Philo’s emphasis on the death penalty for the one who profanes it is to be taken literally, since no allegorical interpretation is given to the Pentateuchal injunctions.

⁸⁴ Commenting on an earlier draft of this chapter, J. Marcus asked whether Philo at this point foreshadowed the later Mishnaic definition of blasphemy as pronouncing God’s name.

In accordance with Lev 24:14–16, Philo says that the punishment for such a crime of blasphemy was capital punishment by stoning. Moreover, in *Mos.* 2:217–218, Philo describes how Moses approached God as the supreme Judge, who declared to him that the death penalty by stoning by those who observed the committing of the crime was the proper sentence and punishment for such a crime as Sabbath breaking. Such a death sentence is in accordance with the Sabbath laws in Exod 31:14 and 35:2. In a corresponding way, the action and accusations of blasphemy, the breaking of the Sabbath laws, and the subsequent reaction of execution intersect in John 5:18 and 10:31. Moreover, in John 8:59, 10:31 (and 11:8 referring back to the event in 10:31), the crime of blasphemy and capital punishment by stoning are specified.

4.3 *The Case of Seduction: John 7:12 in Its Literary Context*

4.3.1 The Crime

In what follows, I shall examine further evidence of the controversy between Jesus and the Jews, and of the charges and legal procedures that were central to this controversy, as it is presented in John 7.

The incident where Jesus in Jerusalem healed a cripple on the Sabbath caused the Jews to seek to kill him (5:16–18). He therefore retreats to Galilee (6:1; 7:1), and is reluctant to return to Jerusalem. Nonetheless, Jesus chooses to go in secret, and in Jerusalem he meets two contrasting opinions about him, the crowd uttering about him: καὶ γογγυσμός περὶ αὐτοῦ ἦν πολλὸς ἐν τοῖς ὄχλοις· οἱ μὲν ἔλεγον ὅτι ἀγαθὸς ἐστίν, ἄλλοι [δὲ] ἔλεγον· οὐ, ἀλλὰ πλανᾷ τὸν ὄχλον (“And there was considerable complaining about him among the crowds. While some were saying, ‘He is a good man,’ others were saying, ‘No, he is deceiving the crowd’”, 7:12). J.L. Martyn discusses this verse in order to construct a case for his hypothesis that there is a two-level drama in John and that the Gerousia of the Jewish community in John’s own time might have claimed that one who worships Jesus as a second god is to be killed. In Martyn’s view, because 7:1 verbally repeats 5:18 about the effort by the Jews to kill Jesus, we might expect to hear a christological claim that would be of the magnitude of 5:18, which might have provoked hostile reaction against Jesus on the ground that he challenged monotheism. Instead, the climax of the opening paragraph of John 7 is created by the emergence of a division of opinion among the crowd, some of whom claim that “he is leading the people astray” (7:12). However, Martyn finds this charge more significant than it appears at first sight. Thus, the claim that Jesus was “leading astray” can be traced to Christian and Jewish accounts from the second and third centuries CE as the legal ground for Jesus’ death, which affirm that he was one who tried to lead the people (Israel) astray, like the prophet or the dreamer attested in Deut 13:6–

19.⁸⁵ Likewise, scholars have pointed to accounts of persecutions of Christians in the second century that suggest that the same passage from Deuteronomy was applied to Jesus' followers. Against the background of evidence from the second century CE, Martyn conjectures that John, by the end of the first century, was familiar with this text as a Jewish charge in his own day and for that reason puts it on the lips of the people who seek to kill Jesus: "In portraying action taking against Jesus on the basis of this charge, John is not dependent on 'Jesus-tradition', but rather primarily on his own experience."⁸⁶ This understanding seems intelligible in the light of the main focus of Martyn's study, namely, to provide evidence for the back story of the Johannine community reflected in John. However, he has neglected data which suggest that the Johannine portrayal of Jews taking action against Jesus as one who is "leading astray" depended on a tradition that can be situated in a cultural context that belonged to the first century CE.

This understanding receives support from Philo, who gives an expository paraphrastic rendering of Deuteronomy 13 and applies this passage to the situation where one who claims to be an inspired prophet leads people astray, and the death penalty may be carried out on the spot, without regular court procedure. As I shall show, there are several points in common between this passage in Philo and John 7, with roots in the issue of seduction in Deuteronomy 13.

- (1) Those who commit the crime are referred to as "deceiving" (Philo) or "leading astray" (John). While Philo is reluctant to use the term *πλανᾶω* ("to lead astray") and replaces it with the verb *ἀπατάω* ("to deceive"), this is probably more a matter of preference rather than change of meaning. Thus, e.g., in *Decal.* 52 idolatry is said to be *πλάνος*. In *Spec.* 1:315 and John 7:12, 47, the verbs refer to phenomenon of false prophecy, which can be traced back to Deuteronomy 13. While in 7:12 it is representatives of the crowd who claim that Jesus is leading the people astray, in 7:47 it is the Jewish authorities who express the same opinion. The police are sent to apprehend Jesus, and when the chief priests and Pharisees ask why their mission failed, they answer: "Never has anyone spoken like this!" (v. 46). The Pharisees undermine the response of the police to Jesus by the taunt: "Surely you have not been deceived too, have you?" (v. 47). The

85 Cf. Justin, *Dial.* 69:7; *Acts Thom.* 96; Josephus, *Ant.* 18:3; *b. Sanh.* 43a; 107b. For a discussion of these texts, see Stanton 2004, 129–135.

86 Martyn 2003, 83.

assumption that such assertions refer to Jesus as a false prophet seems to be supported by our next observations.

- (2) Those who commit the crime of “deceiving” or “leading astray” claim divine legitimation, as an inspired prophet (in Philo) or Jesus as the agent of God (Jesus in John). In *Spec.* 1:315 the false prophet or impostor was claiming to be inspired (ἐνθουσιάζω). This term is used in several other texts in Philo as a description of prophetic inspiration, in which the central conception is the idea that the prophetic mind is led by God or directed by the indwelling and inspiring divine spirit.⁸⁷ In a corresponding way, when the initial response by the audience to Jesus’ teaching is one of astonishment, Jesus replies in John 7:16–17 by attributing his teaching to God’s authority, which he implies by pointing to a divine agency on his part: “The Jews were astonished at it, saying, ‘How does this man have such learning, when he has never been taught?’ Then Jesus answered them, ‘My teaching is not mine but his who sent me.’” Furthermore, Jesus can also assert that the only criterion by which to validate whether his teaching is derived from God is to put it into practice: “Anyone who resolves to do the will of God will know whether the teaching is from God or whether I am speaking on my own” (7:17). In its literary context, this claim also constitutes a reply to the charge of being a false prophet who is “leading astray”.⁸⁸
- (3) In *Spec.* 1:315, “prophet” (προφήτης) and “impostor” (γόης) are contrasted, against the background of the discussion of false prophecy, based on Deuteronomy 13. In Philo’s writings, the impostor can be associated with sorcery (“false magician”) and false prophecy, or he may be one who tries to deceive by falsehoods (ψευδόμενος λόγια) invented by himself, as here in *Spec.* 1:315. In this regard, H.D. Betz summarizes the meaning of an “impostor” in this text appropriately, when he states: “Der γόης ist zunächst der falsche Prophet, der vorgibt, inspiriert zu sein, und falsche Logien und Orakel produziert, um die Gläubigen zu verführen.”⁸⁹ Correspondingly, the reference to Jesus as a true or false prophet seems to constitute the backdrop of the claim that because of his concern for the honor of God, not for his own honor, his teaching is true, and he himself is a character of integrity, in whom no falsehood is found: “Those who speak on their own

87 See Seland 1995, 144–145.

88 A number of scholars reach the conclusion that John 7 defends Jesus against the charge that he is a false prophet. Cf. Meeks 1967, 55–57; Lincoln 2000, 105–109; 2005, 248; Ashton 2007, 211–215; Atkins 2013, 282, 292.

89 Betz 1972, 19.

seek their own glory; but the one who seeks the glory of him who sent him is true (ἀληθής), and there is nothing false (ἄδικία) in him" (7:18).⁹⁰ In John, the expression to speak "not from oneself" is a test of true prophecy. Thus, for example, we are told of the prophecy of Caiaphas: "He did not say this ἄφ' ἑαυτοῦ but being high priest that year he prophesied that Jesus would die for the nation" (John 11:51).⁹¹ J.D. Atkins has most recently argued that John 7 has an important parallel in John 5:41–44, and that precisely Deut 13:2–4 can provide the basis of some of the commonalities between these texts, which have been neglected by scholars. Thus, the true prophet "who seeks the glory of him who sent him" (7:18) corresponds to the "seeking the glory of the only God" (5:44). Likewise, the language of "those who speak on their own seek their own glory" (7:18) has its counterpart in the expression of the one who comes "in his own name" and is accepted by those who receive "glory from one another" (5:43–44). On the basis of the line of thought in Deut 13:2–4, the Johannine Jesus recognizes that his Jewish opponents do not love God, because of their willingness to follow those ('false prophets') who come in their own name (5:42–43).⁹²

- (4) The consequence of the crime of seduction is participation in idolatry and polytheism (Philo), or an attitude that detracts from the glory of the one God (John 5:18; 7:18). One difference is that Philo elaborates on the point in Deuteronomy 13 about polytheism in a pagan city, while the problem in John is the claim of a fellow Jew, Jesus, which might be understood to mean ditheism. Since ditheism is one form of polytheism, it is not implausible that John presupposes juridical traditions that draw on Deuteronomy 13. However, the main issue seems to be the abandonment of Jewish monotheism on the part of Jesus, who is a blasphemer seeking glory for himself and thus one who detracts from the glory due to the only God. In chapter five, I shall examine in more detail the Johannine response to such a claim. For the moment, it suffices to point out that in John, the attempts to kill Jesus are almost invariably linked to the charge by the Jews that Jesus "*makes himself* God" (10:33) or "*makes himself* equal to God" (cf. 5:18) by claiming for himself divine prerogatives.⁹³ Such a

90 The term ἄδικία is applied to false prophets in Jer 5:31 LXX.

91 For other instances of this construction applied in a similar way, cf. John 7:28; 8:28, 42; 14:10.

92 Atkins 2013, 291–294.

93 False prophets were often associated with blasphemy and self-exaltation, cf. Atkins (2013, 285 n. 22), who points to texts such as CD 5:19; 6:2; 2 Pet 2:1–2; Jude 8–11; *Mart. Ascen. Isa.* 3:27–4:6.

conclusion brings us to the next section and the question of the legal process involved in such attempts against Jesus.

4.3.2 The Legal Procedure

At this juncture, I shall suggest that the question that initiated the study of John 7 by Martyn “where John got the picture of legal process involved and the precise law according to which the process is carried out” requires a more nuanced answer than the one suggested by him. Accordingly, the possibility should not be excluded that the meaning of “seeking to kill” in John 7 might amount to *both* the reactions of *either* a vigilante execution on the spot, *or* a procedure in which the guilty are legally arrested, tried, and, if found guilty, executed. On a theoretical level, the reaction of a vigilante execution on the spot based on Deuteronomy 13 is attested by Philo, and might provide a more differentiated answer. Thus, within such a Jewish cultural context of the first century CE, the attempts on Jesus’ life for such crimes as seduction envisaged in John 7 have some verisimilitude. Some clues which surface in the narrative of John 7 may support this possibility.

The basic structure of John 7 seems to build on the case-story in 5:1–10.⁹⁴ This proposal receives support from the observation that references to the incident of Sabbath healing and the efforts on the part of the Jews to kill Jesus are picked up and explicated in the introductory section in 7:1–13 and then in the judicial exchanges in 7:14–51. Thus, e.g., the comment given in 5:18, that the ‘Jews’ sought to kill him, ἐζήτουν αὐτὸν οἱ Ἰουδαῖοι ἀποκτεῖναι, which is not repeated in the remaining part of John 5 or in John 6, is resumed again in 7:1 and 25.⁹⁵ As Parsenios has recently argued, the issue of “seeking” in these verses is not to be regarded as murder, “but rather, the killing of Jesus is one aspect of what it means to seek Jesus in legal fashion.”⁹⁶ Parsenios takes this to mean that “seeking to kill” is an aspect of the broader legal process of investigation in order to arrest him. This view of “seeking to kill” needs to be differentiated, however, since the efforts on the part of the Jews to have him killed (5:18; 7:1) and stoned (cf. 8:59; 10:33) on the charge of blasphemy indicate that the “killing” could also take place as an attempt of vigilante execution on the spot, in contradistinction to the regular due process that was initiated by means of an arrest. Thus, the

94 Cf. e.g. Attridge 2010, 110; Borgen 2014, 207.

95 Attridge (2010, 112 n. 20) comments on this motif in John 7:1 and 25: “This move in 5:18 then sets the stage for the reference to the motif in 7:1 and 25, which are clearly redactional elements in chap. 7.”

96 Parsenios 2010, 81.

use of the verbal language of “to seek”, tantamount to killing (5:18; 8:37, 40) *or* arresting (10:39) Jesus, permeates the narrative in John 7 (7:1, 19, 20, 25) as well.

In view of the fact that John 7:1 and 25 repeat the notice from 5:18 that the ‘Jews’ sought to kill him, it is reasonable that John introduces the accusation that Jesus is “leading astray”, as a further elaboration on why the Jews seek spontaneously to execute him on the spot. Such an understanding may be supported by the indications pointed out above, that the ideas of false prophecy based on Deuteronomy 13 lurk behind the logic of John 5:41–44 and the direct charge of “leading astray”, that is, that Jesus is “leading them to the worship of a god alongside God” (cf. John 5:18). Moreover, Philo’s paraphrastic exposition of this text indicates that within contemporary Judaism at the time of Jesus there might have been those who defended death penalty for Jews such as Jesus, who were charged of seduction, and even intensified Deuteronomy 13 to imply execution on the spot without referring the case to a formal trial.

Against such a backdrop, a reading of John 7:12 in its immediate literary context might point to a setting, known to the audience of John by the end of the first century CE, in which Jews, without references to any Jewish and Roman tribunal, followed their “anger” (cf. John 7:23) and freely ‘took the Law into their own hands’, when dealing with false prophets. This assumption makes it easier to understand why, as it is commonly assumed in Johannine scholarship,⁹⁷ John puts the charge of “leading astray” on the lips of the crowd who seek to kill Jesus, as well as drawing attention at several occasions to the attempts to specifically stone him (8:59; 10:31–33; 11:8), as Deuteronomy 13:10–11 prescribed. John 7 as a whole shows that the attempts to have Jesus killed were by no means hidden from the common people (cf. 7:13, 25). Likewise, Jesus’ question to the crowd, “Why are you looking for an opportunity to kill me?” (7:20), needs to be understood in the light of its immediately preceding context, in which John appears to defend Jesus against the accusation that he is a false prophet (7:16–19). Moreover, Jesus’ answer to the crowd in 7:21–24 makes it clear that he is addressing those who know of his work on the Sabbath and who have alleged that he had broken the Sabbath and was committing blasphemy. It seems, therefore, that the crowd mentioned in 7:20 should not be separated from the Jews mentioned in 5:10–18 and the part of the Jerusalem crowd which expresses the negative reaction to Jesus in 7:12.⁹⁸ Finally, some of the people of Jerusalem are obviously surprised that Jesus continues to teach publicly in the light of such a threat: “Now some of the people of Jerusalem were saying, ‘Is

97 See e.g. Barret 1978, 314; Martyn 2003, 76–83.

98 So also Hakola 2005, 131–132.

not this the man whom they are trying to kill? And here he is, speaking openly, but they say nothing to him!" (7:25–26). As D.A. Carson puts it: "While some in their naïveté might doubt that anyone was trying to kill Jesus (7:19, 20), these people knew better (cf. 5:16, 18; 7:1). What took them by surprise was the public nature of his proclamation, even in the face of such a threat."⁹⁹

At the outset of this chapter, I emphasized that according to Philo, the regular legal reaction in the case of a crime should subject the suspect to arrest and trial, followed by an acquittal or execution. Some features of such a procedure are reflected in the legal reactions against Jesus in chapter 7. He is treated as a criminal, who was to be arrested and brought to trial. Apparently, according to the view of *one* part of the crowd and the Jewish authorities, he was to be arrested. Such an assumption of an official legal procedure receives support by the notices in 7:30, 32, 44, and 45, and is emphasized by Martyn: "On the other hand, an atmosphere of legal proceedings is certainly provided when the Sanhedrin dispatches the police to arrest Jesus, and sits in council ready to subject him to a trial (note *κρίνειν* in v. 51)."¹⁰⁰ In fact, such "an atmosphere of legal proceedings" to be taken against Jesus for the legal charge that he broke the Sabbath laws (7:23–24) has an analogy in the cultural context provided by the evidence of in *Mos.* 2:214–218. As we have noted above, this text informs us of a debate with regard to the legal process to follow, either execution on the spot or making the Sabbath-breaker subject to arrest, trial, and execution. It was decided to take the latter alternative, and on the judgment of God, the man suffered the execution of stoning by those who had witnessed the crime.¹⁰¹ It is significant that Philo also refers here to the keeping of the Sabbath in his own days (*Mos.* 2:216). Accordingly, it is possible that Philo refers here to a legal

99 Carson 1991, 317. It does not come as a surprise that the people of Jerusalem take action when Jesus legitimates his teaching on the basis of his unique knowledge of God, and at the same time accuses his opponents of not knowing God: "Then Jesus cried out as he was teaching in the temple, 'You know me, and you know where I am from. I have not come on my own. But the one who sent me is true, and you do not know him. I know him, because I am from him, and he sent me.' Then they tried to seize him, but no one laid hands on him, because his hour had not yet come" (7:28–30). It is noteworthy that this attempt to seize Jesus seems to derive from a spontaneous decision; this is rather different from the more formal effort to arrest Jesus that later follows by the Jewish authorities (vv. 32, 45). Harvey's comment (1976, 53) on this reaction on the part of the Jerusalemites seems to me accurate: "At this they tried to seize him"—and had it been possible they would doubtless have inflicted the death penalty."

100 Martyn 2003, 78.

101 Seland 1995, 20–25.

proceeding based on the Sabbath laws of Moses that was put into practice in his own time. Applying Philo's terminology, however, one might say that in John 7 the crowd "did not wish to make it appear that they who were but private citizens took upon themselves the ruler's duty of punishment, and that too without a trial, however clear was the offence in other ways [...]" (*Mos.* 2:214). Accordingly, efforts were made to arrest Jesus, in order to take "him before the ruler beside whom the priests were seated, while the whole multitude stood around to listen [...]" (*Mos.* 2:214). In the next chapter, I shall show that a similar outline of legal proceedings is reflected in the attempts to seize Jesus (John 7:32, 45) and the decision by the Sanhedrin to arrest him (11:47, 57), which eventually lead to his arrest and to the hearing before the high priest. The outcome is that Caiaphas in turn refers his case to the Roman Governor for trial, on the charge that according to the Jewish law, Jesus ought to be executed: "We have a law, and according to that law he ought to die because he has claimed to be the Son of God" (John 19:7).

5 Conclusion

1. On a judicial level, Philo's writings on lynch-law (*Spec.* 1:54–57; 315–318; 2:252–253; 3:96) lend support to the view that the Jews might carry out vigilante execution on the spot, without due court procedure. In the light of Philo's expositions of the actions taken against violaters of the Torah, John's literary records of the attempts on Jesus' life may illustrate such a case. The narratives in John of the attempts to kill Jesus for such crimes as breaking the Sabbath, blasphemy, and seduction have some verisimilitude in the cultural context provided by such Jewish evidence known to us from the first century CE. Moreover, when some Jews did not conform to the established Jewish customs, they were in real danger as objects of hostility, censure, and accusations by the Jewish milieu. In the light of the presence of zealous persons in Alexandria, as evidenced elsewhere in Philo's writings, it is probable that there were at least some people who were ready to take such actions. My proposal is that the Johannine accounts that inform us about the attempts on Jesus are more comprehensible within such a Jewish forensic cultural context.

2. Both John (John 5:17–18) and Philo (*Mos.* 2:218–219) give a cosmic interpretation of the crime committed on the Sabbath in a way that might be perceived as intensifying the aspect of the violation. According to the 'Jews' in John, Jesus, by relating the unceasing providence of God to his own activity on the Sabbath, had intensified or 'doubled' his crime of violating the Sabbath by adding

another cosmic aspect to it. According to Philo, the collecting of firewood implied that the Sabbath-breaker intensified his crime: by picking up firewood made for lighting a fire, he not only broke the commandment of resting, but in practice committed a crime against the prohibitions against all the other activities as well, since in the nature of what he collected, the fire was the cause of all the particular activities and occupations.

3. In both *Legat.* 353–368 and *Somn.* 2:130–132, Philo applies the words βλασφημέω or βλασφημία to mean a specific kind of insult of God, viz. the human arrogating and usurpation of divine status to himself. Such evidence seems to provide a cultural context for the accusations of blasphemy against Jesus in John. It is likely that in John the ‘Jews’ defined blasphemy broadly enough, like Philo in his portrayal of Gaius and the unknown Egyptian governor, to have considered Jesus’ words as an encroachment upon divine prerogatives and a usurpation of a role that was inappropriate to his status as a human being.

4. John’s account of the accusation that Jesus is “leading astray” on the lips of the crowd, who therefore seek spontaneously to kill him on the spot, raises the question where John got the picture of the legal process involved and the precise law according to which the process is carried out. The possibility should be considered that the meaning of “seeking to kill” in John 7 might refer to *both* the reactions of either an informal vigilante execution on the spot, or, when the circumstance called for it, an official procedure, in which a criminal is legally arrested, tried, and if found guilty, executed. The alternatives of such reactions against non-conformity to the Law find an analogy in John’s cultural context, in the proceedings attested in Philo, *Mos.* 2:214–218. Moreover, Philo’s paraphrastic exposition of Deuteronomy 13 indicates that within the contemporary Judaism of Jesus’ own time there may have been those who defended the death penalty for Jews such as Jesus, who were charged with seduction, and even intensified Deuteronomy 13 to imply execution on the spot without a proper trial. Throughout chapter John 7, however, another more official legal reaction can also be perceived: Jesus is treated as a criminal who is to be arrested and brought to trial (7:30, 32, 44, 45).

The Official Jewish and Roman Proceedings against Jesus in the Light of Greco-Roman Protocols

1 The Thesis

In the previous chapter, I argued that the legal reactions envisaged in John, according to which Jesus either was subject to vigilante execution on the spot *or* to arrest, ‘trial’, and execution by the official ruling authorities, followed legal proceedings attested by Philo. In this chapter, I shall examine the Johannine account of the official Jewish and Roman legal proceedings against Jesus in the light of the provincial procedures of the Greco-Roman administration. The course of these legal procedures, which can be gleaned from the legal protocols attested in the Greco-Roman papyri, distinguishes between the policing on the part of the municipal magistrates and judicial proceedings before a more competent judge. The course of the Greco-Roman proceedings might thus include elements such as the following: (i) The issues of crime and policing were introduced by an accusation or a petition directed to the local police authority. (ii) The accused person was immediately summoned, or if he was a fugitive, he was searched for, in order to bring him for further inquiry into the case. In the Roman empire, this task was performed by police attendants or specialized liturgical policemen. (iii) If the fugitive still did not show up, other means like public “wanted” posters or some kind of denunciation might be the outcome in order to get hold of the fugitive. (iv) If the ‘outlaw’ then either appeared of his own will or by means of the police attendants, (v) the leading municipal police magistrates, e.g., in Egypt the nome-chiefs (*stratêgoi*), made an examination (δικάγνωσις) of the case by interrogating the various parties involved, such as the offender, the plaintiff, and the witnesses. (vi) If the matter could not be settled by the local magistrates, a referral of the case was made to more competent judges (*epistratêgoi* or the provincial Roman *prefects*), (vii) who carried out another examination (διάληψις; lat. *cognitio*). (viii) Eventually, if the accused was found guilty in an open court (lat. *pro tribunali*), (ix) the punishment followed.

As I shall argue, the Egyptian papyrus *P.Oslo* 11 17 is unique in displaying most of the main features of the Greco-Roman proceedings outlined above, and thus can serve to shed fresh light on the course of the official legal actions against Jesus, as these appear in John’s narrative. My thesis is that the Johannine

account of the Jewish and Roman proceedings against Jesus provides cumulative evidence which fits the procedure of the Greco-Roman administration. The lexical argument for this thesis is strengthened if we also can find legal vocabulary and cross-references to relevant legal data, including first- and second-century protocols, for aspects of these proceedings both in John and *P.Oslo* 11 17. Although *P.Oslo* 11 17 is dated to 136 CE, and was thus written a few decades later than John, I find it still relevant to a comparison with John, since it is a premise of this study that, albeit we have to recognize local variations as far as the provincial procedures are concerned, they seem to be mainly unchanged within the Roman Empire in the period from Augustus to Diocletian.¹ The data presented in what follows will make this evident.

The outline of this chapter will be as follows: First, I shall briefly review previous research into *P.Oslo* 11 17 on its own part, and the question of its relevance to John. Second, I shall study in more detail the legal procedure in the case reported in *P.Oslo* 11 17 in the light of other protocols. Third, against this background, features of the official Jewish and Roman course of proceedings against Jesus in John will be examined. The chapter will be rounded off by some conclusions.

2 The State of Research

A brief analysis of the language and content of this papyrus was provided by the editor S. Eitrem, who purchased the papyrus during a stay in Egypt in 1920, and later published it together with L. Amundsen in 1931, as part of *fascicle* 11 of the collection “*Papyri Osloenses*”.² Eitrem’s observations on the form of the papyrus have been followed up by R. Coles’s renowned study of the form of the legal protocols.³ Coles demonstrates that *P.Oslo* 11 17 partly follows a conventional

1 See Bickerman 2007, 778; Lewis 1995, 298–305; Thomas 2001, 1245–1254; Fuhrmann 2012, 17–18.

2 The published fascicles of the Oslo papyri are now digitalized (OPES) and are available in the papyrological database provided by the url: www.papyri.info. As for the style of the extract, Eitrem viewed it as “concise and good Greek with a flavor of literary language” (1931, 40). Moreover, in the editor’s view, “there is a natural rhythm—stylistic and logical—in this short piece of official and conventional Greek language that at once strikes the modern reader” (1931, 40–41). Eitrem ascribed these stylistic characteristics to the official scribe who, without giving a detailed literary report of the proceedings, “gives a literary style to the pleas as we now read them, though he apparently follows the replication and may, as well as he can, copy the very wording of the parties on the more essential points” (1931, 41).

3 Coles 1966.

protocol form, which divides the legal protocols into four main sections, viz. the introductory formulae (*caput*), the body of the trial, the judgment (ἡ κρίσις), and any concluding matters such as subscriptions of scribes. Concluding elements of this kind are not to be found in *P.Oslo* 11 17.

As for the legal account in the papyrus, the editor holds that “the papyrus gives us a complete extract from reports of judicial proceedings before the strategus in a case concerning the cutting down of vines”.⁴ Later on, scholars such as R. Taubenschlag, M. San Nicolò,⁵ J.D. Thomas,⁶ N. Lewis,⁷ J. Crook,⁸ and most recently B. Kelly⁹ have commented briefly on various aspects of the content of *P.Oslo* 11 17. In his classic study of “Das Strafrecht im Rechte der Papyri”, Taubenschlag investigated the course of the proceedings in the penal procedure attested by the papyri from the Ptolemaic, Roman, and Byzantine periods.¹⁰ Since this study was published in 1916, he was not able to draw on *P.Oslo* 11 17. However, in his great monograph “The Law of Greco-Roman Egypt in the Light of the Papyri”, published in 1944, Taubenschlag included references to *P.Oslo* 11 17 in addition to other papyri with regard to three distinctive points. First, the Oslo papyrus makes it clear that, if an accused person, after having been summonsed or searched for by the local minicipial

4 Eitrem and Amundsen 1931, 41.

5 San Nicolò (52, 296) suggests that *P.Oslo* 11 17 also testifies to the use of torturous punishment in order to elicit the truth during the proceedings.

6 In his discussion of the function of the *stratêgos* in relation to the judicial competence of the *epistratêgos*, J.D. Thomas examines the few instances in the papyri of referrals to the *epistratêgos*. In addition to *BGU* 1 168 and *SB* V 7601 C, he comments on *P.Oslo* 11 17, providing as an example: “Why did the *stratêgos* feel himself incompetent to settle these cases? The editors of *P.Oslo* 17 seem to me right in deducing that the *stratêgos* could not resolve this case because the accused would not admit their guilt; when they persisted in asserting their innocence he was obliged to refer the matter to higher authority” (Thomas 1982, 128).

7 Lewis (1995) has touched on the expression συκοφαντεῖσθαι ὑπ’ αὐτο[ῦ] in line 8 of the papyrus and takes it to refer to a kind of “vexatious villainy that informers practice”, a meaning also attested in other papyri such as *Chrest. Mitt.* 68.

8 In the study of “Legal Advocacy in the Roman World”, J.A. Crook gives an translation of *P.Oslo* 11 17, “to provide, for comparison, one reasonably complete text of legal proceedings in which there is no sign of advocates” (Crook 1995, 107–108). According to Crook, the explanation for the lack of advocates is that *P.Oslo* 11 17 is only a preliminary hearing, although we have to admit that “we have seen advocates in other cases no less preliminary” (1995, 108).

9 Kelly 2011, 100 n. 106; 103; 107 n. 136; 117; 162 n. 190; 183; 291.

10 Taubenschlag 1916, 96–108.

authorities, did not heed the call, “the police proscribed him as a person under suspicion whose whereabouts were unknown.”¹¹ Second, when the accused appeared before the *stratêgos*, “the proceedings were bipartite in the sense that the injured person acted as plaintiff.”¹² Third, the *stratêgos* “might finally send the parties for trial before the competent court.”¹³ The latter issue, attested by *P.Oslo* 11 17, confirmed the suggestion that Taubenschlag had made in 1916, that there was a difference in the Roman period between the police and judicial proceedings.¹⁴

In a study from 1935, E.J. Bickerman examined the juridical facts involved in the gospel accounts of the “trial” of Jesus. Here, he referred to *P.Oslo* 11 17 as evidence of how accused persons who became fugitives provoked repressive measures such as a ‘proscription’ on the part of the municipal authorities: “Similarly, two men who were suspected of having cut down a vine and fled when they were summoned by the *stratêgos* were ‘outlawed’ in 136.”¹⁵ Bickerman suggested that Jesus was subject to a similar kind of legal reaction according to John 11:57:

When the alleged delinquent refused to present himself to the magistrates, and escaped their clutches by leaving Jerusalem, his name was put on the register of the “wanted”: “The chief priests and the Pharisees had given orders that if anyone knew where he was, he should let them know, so that they might arrest him.”¹⁶

On the assumption that Jesus was ‘proscribed’ by the Jewish authorities, Bickerman also drew other inferences from this hypothesis: “it makes it easier to understand a number of traits in the passion narrative of the fourth Gospel which at first sight seem strange.”¹⁷ In the postscript to the English publication of the article, Bickerman states that “my essay attempted to give ‘a new impulse’ to research. I must however state that my voice has not been heard.”¹⁸

¹¹ Taubenschlag 1944, 415.

¹² Taubenschlag 1944, 415.

¹³ Taubenschlag 1944, 415.

¹⁴ Cf. Taubenschlag 1916, 100.

¹⁵ In the following I refer to the English translation of the original French version (1935) that was published in 2007; for this quotation, see Bickerman 2007, 767.

¹⁶ Bickerman 2007, 768.

¹⁷ Bickerman 2007, 768.

¹⁸ Bickerman 2007, 793.

Accordingly, M. Hengel, referring to this postscript, commented about Bickerman's article: "Diese grundlegende Studie verdiente mehr Beachtung [...]." ¹⁹ Correspondingly, Parsenios emphasizes in a recent study that Bickerman's article "had gone unnoticed by both commentators on the Gospel of John as well by historians of Jesus, and he thought that he had set the situation aright with his extensive research. Over 70 years later, however, the matter remains largely as he found it." ²⁰

In the last part of this chapter, I shall revisit some of Bickerman's observations, which still seem to have been passed over by Johannine scholars. Thus, I shall discuss, emphasize, and modify some of his observations about the course of proceedings attested in John. My contribution to the ongoing scholarship in this chapter will advance the discussion of the legal proceedings against Jesus depicted in John, through a comparison with the evidence in *P.Oslo* II 17. At the very least, Bickerman's article has pointed to the relevance of the Egyptian protocols, with *P.Oslo* II 17 as an important source that deserves to be brought further into the discussion of the legal discourse of John. ²¹ I now turn to a detailed analysis of this protocol.

3 The Course of Legal Proceedings According to *P.Oslo* II 17 ²²

3.1 *Greek Text with English Translation* ²³

- 1 ἐξ ὑπομνηματισμῶν Θέωνος γενομένου στρατηγού Προσωπίτου
(ἔτους) κ θεοῦ Ἀδριανοῦ Ἐπεὶ κδ.
Προσελθόντων Νααρῶτος, ἐπικαλουμένου Κονθαύριος καὶ Πεεβῶτος
ἀμφοτέρων μητρὸς Ταφεσιήους [ἐπὶ παρο]ῦσι Ἀροννήσει Πανδβέως
5 καὶ Ἰμούθῃ Ὡρου, ὁ στρ(ατηγὸς) Ἀροννήσει· τί περὶ τούτων ἔλεγε; εἰπόντος·
σὺν ἐμοὶ δειπνοῦντες ἀπέστησαν νυκτὸς τοῦ συμποσίου καὶ ἐπανελθόντες ἔφασαν

¹⁹ Cf. Bickerman 2007, 601 n. 1.

²⁰ Parsenios 2010, 52.

²¹ Borgen (1974, 583; 2014, 227) has a brief general reference to the "protocol form" in Josephus, *J.W.* 6:305 and *P.Oslo* II 17, which he also assumes to be reflected in the interrogation of John the Baptist in John 1:19–25.

²² *P.Oslo* inv. 540. Size: 20.4 × 16 cm. Lines: 18. Publication site: *Recto*, the *Verso* published as *P.Oslo* II 43. Date: July 18, 136 CE. Origin: Unknown place, Prosopite nome, province of Egypt. Provenance: Oxyrhynchos, Oxyrhynchite nome, province of Egypt.

²³ The statements in direct speech by the *stratēgos* are rendered in bold type. The translation is my own.

- κεκοφέναι τοῦ Ἰμούθου τὰς ἀ[μ]πέλους, τῶν περὶ τὸν Νααρῶν εἰπόντων
 συκοφαντεῖσθαι ὑπ' αὐτο[ῦ], ὁ στρ(ατηγός)· τότε αὐτῷ οὐ συνεγέν[ου];]
 εἰπόντων· ναί, οὐδὲν μέντοι[ι γ]ε τοιοῦτο ἀκήκοε παρ' ἡμῶν, ὁ στρ(ατηγός)·
- 10 εἰ καθαρὰν εἶχετε συνείδησι[ν, δι]ὰ τί ζητηθέντες ἐπὶ τῆς διαγνώσεως
 [τοῦ] πράγματος οὐκ ἐφάνητ[ε ἔ]ως προγράφητε; εἰπόντων· ἐπὶ ξένη[ς]
 ἡμεῖν ἐργαζόμενοι ἐν κτήματι, ὁ στρ(ατηγός)· καὶ τὴν αἰτίαν δι' ἣν ἐπηρε[ά]-
 σατ[ε] τῷ κτήματι ὁ Ἀροννήσις εἴρηκε. καὶ ἐπιτρέψας αὐτοὺς ἐπιπλ[η]-
 χθῆναι ἔφη· τὸ ἀληθὲς ἐξομολογήσασθε. ἐπιμενόντων τῷ μὴ
- 15 κεκοφέναι ἀμπέλους, ὁ στρ(ατηγός)· ποῦ ἐστὶν ὁ ἀρχέφοδος; ὑποδειχθέν[τος]
 τὸν ἀδε[λ]φὸν αὐτοῦ Ἰμούθην παρεῖναι, ἐκείνον γὰρ ἀσθενεῖν, ὁ σ[τρ(ατηγός)] τῷ
 Ἰμ[ού]θῃ· ἰκαγόν σοι οἱ δύο οὗτοι δότωσαν ἵνα ἐπὶ τὸν κράτιστο[ν]
 ἐπισ[τρ(ατηγόν)] παραγένωνται ὅταν διαλαμβάνῃ περὶ τοῦ πράγματος.

- 1 From the minutes of Theon, *stratēgos* of the Prosopite nome, in the 20. year of the deified Hadrian, Epeiph 24. Appearing before the court, Naaros, also called Konthauris, and Peebos, their mother being Tafesies, in the presence of Haronnesis, son of Pandbeus,
- 5 and Imouthes, son of Horos. **The *stratēgos* to Haronnesis:** “What did you say about these (men)?” He said:
 “During a supper at my house they left the party at night, and when they returned, they said they had cut down the vines of Imouthes”. Naaros and his accomplice claimed
 they were vexatiously accused by him. **The *stratēgos*:** “Did you not meet him?” They said: “Yes, but Haronnesis did not hear anything like that from us.” **The *stratēgos*:**
- 10 “If you had a clear conscience, why, after having been searched for with a view to an examination of the case, did you not appear until you were proscribed?” They said: “We were away, working on an estate.” **The *stratēgos*:** “And the reason why you intruded on the estate, we have heard from Haronnesis.” And requesting that they be punished,
 he said: “Confess the truth!” They maintained they had not
- 15 cut down the vines. **The *stratēgos* [asked]:** “Where is the chief of police?” It was pointed out that his brother Imouthes was present, he himself being ill. **The *stratēgos* to Imouthes:** “Let these two give you security to appear before the most excellent *epistratēgos* when he rules in the case.”



FIGURE 1 *P.Oslo II 17. Digitally reproduced with the permission of Oslo University Library, Papyrus Collection.*

3.2 *The Structure and Formulae in P.Oslo II 17*

3.2.1 The Introductory Formulae

The *caput* of a protocol covers the introductory formulae preceding the opening speech.²⁴ We can observe that *P.Oslo II 17* follows the conventional form of a *caput*: The first part, down as far as the date, gives the extract phrase ἐξ ὑπομνηματισμῶν followed by the genitive, stating the presiding official's formulae, i.e. the name and the title of the presiding official, the *stratêgos*, from whose minutes the report was taken.²⁵ Then follows the date, before the names of the parties in the case are introduced after the first 'participants' type phrase, προσελθόντος. This phrase is common, and usually refers to one of the parties only,

²⁴ The *caput* usually encompasses elements such as an extract phrase, presiding official's formulae, a date formula, 'participants'- and 'presence'-phrases. Cf. Coles 1966, 29–38. Coles give, as the basis for his analysis of the structure and formulae in the protocols, the example found in *P.Oxy. I 37*, dated to 49 CE.

²⁵ Other papyri in which the extract phrase is followed by a genitive are: *P.Oxy. I 37* (49 CE); *P.Fam.Tebt. 19* (118 CE); *P.Mil.Vogl. I 25* (126 CE).

and most often the plaintiffs, but it seems that *P.Oslo* 11 17 is an exception in this regard, since it refers to the offenders.²⁶ On the other side of the “table” we find the plaintiff introduced by the ‘presence’ formula [ἐπὶ παρο]ῦσι. In this case, when the ‘presence’ formula follows the ‘participants’ formula, it may refer to one of the participants such as the plaintiff, and to non-official figures like the witness.²⁷

3.2.2 The Body of the Police Examination

The body of the examination comprises the part beginning with the opening speech and the subsequent speeches down to the κρίσις. Thus, this part of the trial in *P.Oslo* 11 17 can be described as a police interrogation of both parties by the leader of the municipal police-authorities, ὁ στρατηγός. In *P.Oslo* 11 17 the presiding official, the *stratēgos*, is mentioned by his name (Theon) only in the introductory part, but in the body of the documentary protocol he is simply called ὁ στρατηγός, which is commonly in other reports.²⁸ In the protocols, it is also common to use the title of the speaker alone followed by direct speech, although a verb of saying was also occasionally used to introduce direct speech.²⁹ In *P.Oslo* 11 17, we find that both forms are applied. Hence, the no-introductory-verb type is simply introduced by ὁ στρατηγός. Four statements are questions to the witness Haronnesis and the offenders. In one statement the utterance of the *stratēgos* is introduced by the verb ἔφη (l. 14). Moreover, while the style with no introductory verb is the standard construction for the presiding official,³⁰ the genitive absolute construction with a participle, εἰπόντος, is used to introduce the statements by one of the participants.³¹ In *P.Oslo* 11 17, the replies, once by the witness and twice by the offenders, are also given in the form of the genitive absolute construction with a participle, εἰπόντος.³²

26 Cf. Coles, 1966, 31, n. 4.

27 Cf. *P.Oxy.* II 237 VII.31 (133 CE: participant); *P.Oxy.* III 653 (160/2, CE?: one of the parties); *Chrest.Mitt.* 372 I.17 (2nd century: father of the plaintiff); *P.Mert.* I 26 (274 CE: defendant?).

28 Cf. e.g., *P.Oxy.* I 37.

29 Coles 1966, 40–41.

30 This style remains the standard construction for the presiding official from the first century CE, for which *P.Oxy.* I 37 provides the earliest example, until about the 130's, of which *P.Oslo* 11 17 is among the later testimonies; cf. Coles 1966, 41.

31 In the latter case, the names of the speakers in the subsequent utterances and replies have been omitted, while there were descriptive details attached to their names on their first appearance in the caput. Cf. also *P.Ryl.* II 77 and *P.Oxy.* I 40.

32 This omission of the name of the speaker in replies is also found in e.g. *P.Mich.* VI 365;

In the body of the reports, we also find instructions directed to the court personnel regarding the treatment of one of the parties. In this category, orders for beating one of the participants are usual, not primarily for punishment, but for the purpose of eliciting information. As Coles observes, the earliest example of this is found in *P.Oslo* II 17.13–14: καὶ ἐπιτρέψας αὐτοὺς ἐπιπλ[η]χθῆναι ἔφη· τὸ ἀληθὲς ἐξομολογήσασθε (“And requesting that they be punished, he said: ‘Confess the truth!’”).³³

3.2.3 The κρίσις

In the protocols, there is a differentiation between the presiding official’s preliminary statements and his final decision or judgment. In *P.Oslo* II,17 we find the κρίσις expressed in l. 16–18: ὁ σ[τρ(ατηγός)] τῶι Ἰμ[ού]θῃ· ἱκανόν σοι οἱ δύο οὗτοι δότωσαν ἵνα ἐπὶ τὸν κράτιστο[ν] ἐπισ[τράτηγο]ν παραγένωνται ὅταν διαλαμβάνῃ περὶ τοῦ πράγματος. (The *stratēgos* to Imouthes: “Let these two give you security to appear before the most excellent *epistratēgos* when he rules in the case”). It may be noted that one method of distinguishing between κρίσις and the previous statements of the *stratēgos* is the use of the “dative of addressee” formula, which is used here too, cf. the expression ὁ σ[τρ(ατηγός)] τῶι Ἰμ[ού]θῃ in l. 16–17.

As a summary of these observations on the structure and formulae of *P.Oslo* II 17 the outline of the protocol can be displayed as follows:

Main sections of the protocol	Conventional phrases of the protocol	Text-line	Text of the protocol in abbreviated form
<i>Caput</i>	Extract phrase	l. 1	ἐξ ὑπομνηματισμῶν
	Magistrate	l. 1	Θέωνος γενομένου στρατηγοῦ Προσωπίτρου
	Date formula	l. 2	(ἔτους) κ θεοῦ Ἀδριανοῦ Ἐπεὶ κδ.

P.Oxy. XXII 2341; *Chrest.Mitt.* 93; *SB* V 7696. Another distinction between first and subsequent references to the participants is the attachment of the parent’s name to a participant on his first appearance, as e.g. in *P.Fam.Tebt.* 19 (118 CE). A parallel to this is in *P.Oslo* II 17, where the mother’s name is attached to the name of the offenders in the *caput*, while the father’s name is attributed to the names of the witness and plaintiff. See Coles 1966, 39.

33 Coles 1966, 48.

(cont.)

Main sections of the protocol	Conventional phrases of the protocol	Text-line	Text of the protocol in abbreviated form
	Participants- and presence-phrases	l. 3–5	προσελθόντων Νααρώτος [...] και Πιεβώτορς [...] [ἐπὶ παρο]ῦσι Ἀροννήσει [...] καὶ Ἰμούθῃ [...]
<i>Body of the examination</i>	1. Direct speech; the <i>stratēgos</i> ; question to the witness	l. 5	ὁ στρ(ατηγός)· [...]
	Genitive abs. participle; The reply of the witness	l. 6–8	εἰπόντορς [...]
	Genitive abs. participle; The objection of the suspects to the answer of the witness	l. 7–8	τῶν [...] εἰπόντων [...]
	2. Direct speech; the <i>stratēgos</i> ; question to the suspects	l. 8	ὁ στρ(ατηγός)· [...]
	Genitive abs. participle; the objection and second reply of the suspects	l. 9	εἰπόντων· [...]
	3. Direct speech; the <i>stratēgos</i> to the suspects	l. 9–11	ὁ στρ(ατηγός)· [...]
	Genitive abs. participle; the third reply of the suspects	l. 11–12	εἰπόντων· [...]
	4. Direct speech; ironic comment by the <i>stratēgos</i> to the second reply of the suspects	l. 12–13	ὁ στρ(ατηγός)· [...]
	5. Direct speech introduced by the verb ἔφη; the <i>stratēgos</i> ' request of coerced confession by the suspects	l. 13–14	καὶ ἐπιτρέψας αὐτοὺς ἐπιπλ[η]- χθῆναι ἔφη· τὸ ἀληθές ἐξομολογήσασθε

Main sections of the protocol	Conventional phrases of the protocol	Text-line	Text of the protocol in abbreviated form
	Narrative comment by the scribe; the suspect's maintenance of their innocence	l. 14–15	ἐπιμενόντων τῷ μὴ κεκοφέναι ἀμπέλους
	6. Direct speech; the <i>stratēgos</i> ' question to the court; asking for the police official	l. 15	ὁ στρ(ατηγός)· [...]
	Narrative comment by the scribe; the presence of the brother of the police official	l. 15–16	ὑποδειχθέν[τος] τὸν ἀδελ[λ]φὸν αὐτοῦ Ἰμούθην παρεῖναι [...]
The κρίσις	Dative of addressee-phrase; 7. Direct speech; referral of the case to the <i>epistratēgos</i>	l. 16–18	ὁ στρ(ατηγός)] τῷ Ἰμ[ού]θῃ· [...]

3.3 Observations on the Course of Proceedings According to P.Oslo II 17

One of the reasons why P.Oslo II 17 is so valuable is that it gives us almost a complete extract from the minutes (ὑπομνηματισμοί)³⁴ of judicial proceedings before the Egyptian *stratēgos*.³⁵ I shall now make some brief comments

34 ὑπομνηματισμοί (or *commentarii*) is the legal term for minutes of trials taken down by official scribes. Besides Coles' (1966) study of the form of these records, G. Bisbee's (1988) investigation of about a hundred *commentarii* from the second and third centuries CE should also be mentioned. See also most recently G. Stanton's (2013, 401–402) comment on the *Acts of Justin* in the light of the *commentarius* form: "As in the triple martyrdom that he narrates in his 2 *Apology*, Justin, if the Acts that bear his name can be taken as preserving the essence of a *commentarius* from his hearing, also comes to his end for his identity as a Christian." It is beyond the scope of this study to investigate whether the oral traditions behind the hearing of Jesus in John 18–19 resemble traits of the *commentarius* form.

35 The first four lines of the *caput* give information about the official judicial aspects of the case. The *caput* informs that the court proceeding took place in 132 CE while Hadrian was emperor. Then follows a description of the participants present. The interrogator in the preliminary hearing (*anakrisis*) was the Egyptian *stratēgos* Theon, who was in charge of

on the course of the proceedings by pointing out how each stage comes to expression in *P.Oslo* II 17, either reflected through the explicit language and phrases applied in the description of the proceedings, or presupposed in a more implicit way between the lines. As we shall observe, these stages are conventional, since they are reflected in comparable data, such as other papyri from Egypt in the Greco-Roman period or relevant sources from the same time.

3.3.1 Private Petition

The petition directed to officials, called *ὑπόμνημα*, is the first phase of a legal criminal proceeding. Police proceedings were introduced by an accusation or a petition on the part of the victims directed to the competent police-authorities.³⁶ According to Taubenschlag, there was a difference between the policing and judicial proceedings in the Ptolamaic, Roman, and Byzantine periods.³⁷

In *P.Oslo* II 17, such a procedure of making a petition to the local police seems to be presupposed. The crime committed is that the vines of Imouthes had been cut down by two offenders, Naaros and Peebos. These accused persons are known thanks to the witness Haronnesis, cf. the statement of the *stratêgos* to the witness in line 5 [ὁ στρ(ατηγός) Ἄροννήσει· τί περὶ τούτων ἔλεγες;]. On the

the nome Prosopite. Moreover, the names of the two parties in the case are referred to; the offenders are identified as Naaros, also called Konthauris, and his brother Peebos, both sons of their mother Tafesies. The other side is represented by the witness Haronnesis, and the plaintiff, Imouthes, who was the owner of the vines which had been cut down. In addition, two other persons are present. One of these is mentioned in line 16 as the brother of the chief of police, named Imouthes. We should conclude that the other person was the official scribe who wrote down the minutes.

36 Palme 2009, 376; Fuhrmann 2012, 79.

37 Taubenschlag 1916, 97; 1944, 411–416. For a recent investigation of the papyrological evidence for the criminal procedures in the Ptolemaic period, see Bauschatz, 2005. During the Roman period, however, petitions might be “addressed to all levels of the provincial administration from the local police officer through the *exegetes* at the urban level and the *stratêgos*, as well as the *basilikos grammateus* at the district level, to the procurators of equestrian rank (e.g. *epistrategoi*, *juridicus*) and the prefect himself” (Palme 2009, 376). At the annual *conventus*, the Roman prefect could reach a final judgment in a case on the basis of such an application. The petitions ask that the accused be brought to the police for interrogation or to prison until they are judged for their criminal acts. In cases where the criminal was unknown, the application asks the municipal police authorities to file the case, should the criminal appear again at a later time. See e.g. *P.Oxy.* XLIX 3464 (ca. 54–60 CE); *P.Fouad* 23.12–15 (144 CE).

basis of such a testimony, we can imagine that the victim Imouthes has sent in a petition to the police authorities, in this case to the *stratêgos*, in order to have the accused searched for.

3.3.2 Investigation

The petitions or applications in the Roman era differed according to whether or not the delinquent was known. In the case of a known accused person, the petitions requested on principle an order of summons of the accused with the assistance of the village police authorities.³⁸ The investigation was issued by the head of the police in the district (called a *nome* in the Roman Egypt) and addressed to the police forces at hand, either in the town or in the village where the criminal was supposed to be.³⁹ In accordance with this request, the police authorities summoned the accused. This might mean making official inquiries about one or more suspects, or sometimes the summons were practically orders to send a person, originated from the office of the *stratêgos*.⁴⁰ Under the Roman Empire, public security was the responsibility of the local municipalities. Hence, the inhabitants of the town were also conscripted for such an enterprise.⁴¹ If the offenders were unknown, and if the petitions requested it, the higher police authority charged their subordinates with a commission to make an investigation. This implied, for example, that the *stratêgos* commissioned local police attendants to search for the accused, and if found, seize them and send them to the *stratêgos* for closer interrogation and examination.⁴²

According to *P.Oslo* II 17, the accused were probably known both to the plaintiff Imouthes and to the witness Haronnesis. We might also presuppose that the *stratêgos*, after having received the petition, had at once taken the investigation of the case in hand. This we can observe from line 5 and the imperfect ἔλεγεσ and the expression ἐπὶ τῆς διαγνώσεως [τοῦ] πράγματος in line 10.⁴³ From the

38 Hirschfeld 1913, 613–623; Gagos and Sijpesteijn 1996, 77–97; Keenan 2014, 502–516.

39 Cf. *P.Mich.* VI 365 (194 CE) as an example of such a proceeding. For more references to reports of proceedings that state that the accused person was summonsed and failed to appear, cf. Kelly 2011, 100.

40 From the Roman period there are more than forty orders of summons attested in the papyri; cf. Palme 2009, 376; Kelly 2011, 94–103.

41 Cf. *P.Oslo* II 20 (third century CE); Bickerman 2007, 728.

42 See *P.Oxy.* II 294 (22 CE); *P.Oxy.* I 69 (190 CE).

43 In the papyri the noun διαγνώσις and cognates can be taken to refer to a judicial ‘investigation’ as e.g. in *P.Oslo* II 17; III 84; *SB* XII 10929, or be equivalent to a judicial *cognitio* (a ‘trial’) as in the inscription *IGUR* I 59. Cf. Cook 2010, 274.

verbal participle ζητηθέντες preceding the latter expression, we can infer that the *stratēgos* has ordered an official inquiry after the suspects on the basis of the accusations he was informed about, since they had obviously disappeared. The *stratēgos*' asking for the local police official (ποῦ ἐστὶν ὁ ἀρχέφοδος;) at the end of the hearing (cf. line 15) also allows us to infer that he has charged him with this commission.⁴⁴

3.3.3 Denunciation

In *P.Oslo* II 17 we find another Greek word used about the informer, συκοφαντέω, which can imply “false accusation”. Although the noun of this verb, according to LSJ, can denote a “common informer, voluntary denouncer”, without the implication of false accusations, the noun can also mean “vexatious prosecutors of innocent persons”.⁴⁵ As I mentioned above, Lewis takes this expression to refer to a kind of “vexatious villainy that informers practice”, pointing to a parallel in *P.Col.* IV 83: “[...] ἀπελθόντος δέ μου ἐκ Φιλαδελφείας διὰ τὸ συκοφαντεῖσθαι ὑπὸ Ἀρτεμίδ[ω]ρου τοῦ παρ’ Ἀπολλωνίου” (“After I had gone away from Philadelphia because I was being vexatiously accused by Artemidoros, the agent of Apollonios [...]). Nevertheless, the meaning of the word in the Oslo papyrus seems to imply that the accused perceived Haronnesis as an informer, conveying vexatious and false accusations.⁴⁶

It is noteworthy that Justin's Greek text of Hadrian's rescript, included in his *First Apology* around 150 CE, implies that an examination of a case should be performed when an accuser appears before the tribunal, especially when the informers might have made false accusations: “I have decided not to leave the matter unexamined (τὸ πρᾶγμα ἀζήτητον καταλιπεῖν), so that people may neither be troubled nor that means for evildoing be supplied to informers (τοῖς συκοφάνταις)” (*1 Apol.* 68:7). The Greek words used here attest the same association of investigative seeking and informing by the accusers as in *P.Oslo* II 17.

44 See e.g., *P.Oxy.* I 69 (190 CE). As the editor of *P.Oslo* II 17, Eitrem (1931, 41) claims: “The archephodus may already from the beginning have been instructed in the matter [...]”

45 LSJ s.v. § 3 also refers to *Codex Iustinianus* (CJ) 1.4.34.17: καὶ μηδένα συκοφάντην ἐπ' ἀνίστασθαι τισι καὶ ψευδοκατηγορεῖν ἢ ψευδομαρτυρεῖν ἐν τοῖς τοιοῦτοις (“and no informer should stand against individuals and make false accusations or bear false witness in these matters.”), transl. by Cook 2010, 267 n. 64.

46 See Cook 2010, 271; Kelly 2011, 291.

3.3.4 'Proscription' of the Fugitive

If the accused persons disappeared, the police might 'proscribe' them as persons under suspicion whose whereabouts were unknown. The proscriptions implied that the names of avowed criminals were published publicly, to make it possible to denounce the hiding place of these "registered persons".⁴⁷

We can observe that the 'proscription' of the accused has also taken place according to *P.Oslo* II 17. This is evident from the question that the *stratêgos* puts to the accused according to l. 10–11: εἰ καθαρὰν εἶχετε συνείδησιν, διὰ τί ζητηθέντες ἐπὶ τῆς διαγνώσεως [τοῦ] πράγματος οὐκ ἐφάνητε [εἰ] ὥς προγράφητε; ("If you had a clear conscience, how can it be that you, after having been searched for with a view to an examination of the case, did not appear until you were proscribed?"). These lines refer explicitly both to an inquiry and to a subsequent 'proscription' of the accused as fugitives whose whereabouts were unknown because they were hiding. The accused explain that the reason they fled or did not appear, after having been searched for and until they were proscribed, was that they were working away on an estate. The *stratêgos* then follows up the assertion of the accused by an ironic comment: "and the reason [...] (*sic.* for your staying away from home as fugitives) Haronnesis has said" (l. 13).

The word for 'proscribe' (προγράψω, l. 11) as part of a police proceeding is known from other papyri such as *BGU* II 372 (154 CE) and *P.Tebt.* II 411 (2nd century CE).⁴⁸ The former text refers to an edict of *Liberalis* where the Roman prefect guarantees that there shall be no inquiry made on behalf of the peasants who were vagabonds or by others who have been proscribed by the *stratêgos* "for all kind of reasons" (μ[ηδ]εμίαν πρὸς αὐ[τ]οὺς ζητήσιν ἔσσεσθαι, ἀλλὰ μηδ[ε] πρὸς τοὺς ἀλλ[ο]υς τοὺς ἐ[ξ] ἧς δῆποτε αἰτίας ὑπὸ τῶν στρατη[γῶν] προ[γρ]αφέντας.). The latter text is a letter from a father to his son, urging him to come home at once, as the *epistratêgos* has made "several inquiries" for him and has threatened to proscribe him (l. 5: ὁ γὰρ κράτιστος ἐπιστράτηγος ἱκανῶς σε ἐπεζήτησε. οἷός τε ἦν καὶ προγράψαι [...]; "for His Highness the *epistratêgos* has made several inquiries for you. He might even have proscribed you" [...]).⁴⁹

Proscriptions were an additional procedure that was used in conjunction with a police investigation, which meant a repressive measure on the part of the

47 Cf. Bickerman 2007, 768, who also refers to *PSI* III 229; 232; Justinian: *Dig.* 48.17.1.2; Tertullian, *Fug.* 13, and Pontius, *Vita Cypriani* 7, as evidence for the publishing of the names of 'outlaws'.

48 For a discussion of the former papyrus, see Cowey 1995, 195–199.

49 Translation according to APIS (Advanced Papyrological Information System); see the following url: <http://papyri.info/ddbdp/p.tebt;2;411/>

Roman administration against fugitives who for various reasons were in conflict with official authorities and escaped arrest by fleeing and hiding.⁵⁰ In the vocabulary of the papyri, the word ἀναχώρησις is the common designation for evasions of this kind. More instances of this phenomenon have been recently documented by the publication of *P.Oxy.* LX 4060, which contains correspondence to the *stratêgos* of the Oxyrhynchite nome from 161 CE. As the editor, R. Coles, writes in the introduction to the transcription of the papyri: “The bulk of the correspondence is concerned with searching (negative in all cases!) for wanted persons”.⁵¹ *P.Oxy.* LX 4060 characterizes various types of fugitives, including eight who were wanted on criminal charges. Lines 73–74 describe two of them further as ἀφανείς γενομένους προγραφέντας, which is translated in the edition as: “having disappeared on being proscribed and not having been seen.” Lewis comments on these lines as follows:

But the reality was that proscription was a resulting punishment, not a precipitating cause, of ἀναχώρησις: cf. *BGU* II 372 = *W. Chr.* 19, *P. Tebt.* II 411. However inelegant it may become grammatically, we must, I suppose, take the three participles to be in simple parataxis: the men vanished, were proscribed, and did not reappear. Now they were outlaws, and the order that they be searched for followed automatically, inexorably.⁵²

I think that Lewis’ view supports Bickerman, whose translation of some of the relevant papyri renders to be ‘proscribed’ as being ‘outlawed’. The verb προγράφω in this sense is employed as early as 69 CE, in the edict of Tiberius Julius Alexander in the inscription *OGIS* II 669.⁵³ In any case, to be proscribed was decidedly damaging to the criminal’s case. It seems that to be proscribed or ‘outlawed’ gave the impression of being guilty and that the culprits had “denounced themselves by the very fact of their flight.”⁵⁴

In support of Bickerman’s view that the culprits denounced themselves as guilty by being proscribed, we should mention the ironic question of the *stratêgos* to the culprits, whether they had a “clear conscience”, since they did

50 Besides *P.Oslo* II 17.10–11, see too *BL* II.2 90; III 119; *P.Oxy.* XLIX 3464.16–17. For papyri from the Ptolemaic period referring to notices of ‘proscription’, see also *SB* V 7609; 7610; *BGU* VIII 1774. Cf. Taubenschlag 1959, 2.125–131.

51 Coles 1994, 127.

52 Lewis 1996, 65.

53 The text is translated by Lewis and Reinhold 1990, 295–298.

54 Bickerman 2007, 772.

not appear until they were proscribed (*P.Oslo* II 17.10). As far as I know, this is the only evidence of an explicit association of the question of guilt on the part of the culprits with the action of proscription.

3.3.5 The Arrest

Unless the offenders appeared at once of their own free will after the ‘proscription’, the police continued to search for them.⁵⁵ If the culprits were brought back by the policing officials, for example, by the ἀρχέφοδος present at the hearing according to *P.Oslo* II 17.15, this meant that they had been arrested and brought to court.⁵⁶ We have noticed that a proscription of the culprits had taken place in the case reported in *P.Oslo* II 17. We might surmise that if they had not appeared of their own free will, they might have been arrested by the police because of the proscription, and thus on the assumption that the culprits were guilty. In either case, as a consequence of the legal action of ‘proscription’, the culprits would have appeared before the local municipal authority.

In most cases, scholars have assumed that the so-called ‘order for arrest’, which was issued by the *stratēgos*, amounted to an ‘arrest’ of the suspect. But more recent studies of these papyri have proposed that such texts are not necessarily arrest warrants, but that they are perhaps best described in terms of ‘orders to send a person’.⁵⁷ The papyrologists T. Gagos and P.J. Sijpesteijn have presented the following arguments in support of this proposal: First, there are strong affinities in language and subject-matter between summonses and petitions addressed to the *stratēgos*, in which he is asked to search for the accused with the cooperation of police officials. Second, there is no expression that one would translate by the modern notion of ‘arrest’. Thus, the papyri urge the police authorities to ‘send’ or ‘bring’ the accused before the higher authority which gave the order. Third, there is little evidence concerning the arrest in the papyri. According to a recent study by S.T. Tovar, we have very little information about the duties of the local police in such matters.⁵⁸ There is thus not enough

55 Most recently, Fuhrmann (2012) has provided a large-scale study of the various definitions and levels of policing in the Roman empire, including the Egyptian province. Unfortunately, he leaves out any references to the different levels of policing attested in *P.Oslo* II 17.

56 Cf. *P.Oxy.* II 294 (22 CE), in which the accused are held in custody until they appear before the tribunal of the Roman prefect in Egypt. This papyrus is also interesting because it gives evidence of the possibility of being bailed.

57 This term was suggested by Bagnall and Mitthof 2004, 59. Cf. also the discussion of this issue by Keenan 2014, 506–507.

58 See Tovar 2006, 101–110.

evidence to know exactly in detail how the arrest was performed. However, one issue seems to be clear, i.e., that the suspect criminals were not arrested and taken to prison unless it was supposed that they were guilty or, as Gagos and Sijpesteijn argue:

[...] it was hardly possible that, according to existing legislation in Graeco-Roman Egypt, accused individuals could be arrested before they were found guilty. It was the responsibility of the higher authority that issued the order to see what action was needed; arresting the accused might have been one of many options and perhaps only as the last resort.⁵⁹

I will return to the meaning of an ‘arrest’ below when I turn to a discussion of the evidence of John on this matter.

3.3.6 The Hearing

At this stage, when the culprits had showed up voluntarily or had been taken into custody, the *stratêgos* could continue the examination of both the parties and of witnesses. According to Taubenschlag these “proceedings were bipartite in the sense that the injured person acted as plaintiff.”⁶⁰ In a preliminary hearing arranged by the police authorities, which was not like a judicial proceeding before a competent judge, it is conceivable that no advocates were involved, as is the case in *P.Oslo* 11 17. Accordingly, the police official (the *stratêgos*) was the only one who examined the parties, i.e. the plaintiff and the offenders, and also the witness Haronnesis. The interrogation, with the questioning and subsequent answers, seems to have followed the conventional structure attested in other protocols, as I have described above.

The examination attempted to force the defendant to make a confession of his guilt.⁶¹ Thus, Roman jurists write about squeezing out and excising the truth.⁶² It seems that judicial torture was part of the repertoire of Roman judicial investigation, according to e.g. *Dig.* 48.10.15.41: “By torture we mean the infliction of anguish and agony on the body to elicit the truth.”⁶³ This may be

⁵⁹ Gagos and Sijpesteijn 1996, 78–79.

⁶⁰ Taubenschlag 1944, 415.

⁶¹ Taubenschlag 1959, 397.

⁶² *Dig.* 48.19.28.2. For discussions of torture in judicial proceedings in Roman Egypt, see Taubenschlag 1959, 2.737–741, Coles 1966, 48; Kelly 2011, 183–184. Cf. also Glanzy’s discussion of torture in *Digesta* (Glanzy 2005, 118).

⁶³ Cf. also *SB* XXVI 16643.6–7; *P.Lips.* I 40.ii.7; iii.20; *P.Oxy.* LI 3619.24.

the case in *P.Oslo* II 17 too. Thus, in lines 13–14 the *stratêgos* makes the request that the culprits should be punished in order to elicit a confession: καὶ ἐπιτρέψας αὐτοὺς ἐπιπλ[η]χθῆναι ἔφη· τὸ ἀληθὲς ἐξομολογήσασθε (“And requesting that they be punished, he said: ‘Confess the truth!’”). According to S. Nicolò, followed by Taubenschlag, this kind of punishment corresponds to “bastinado” (from the Greek βάσανος).⁶⁴ The editor of *P.Oslo* II 17, however, proposed that the *stratêgos*’ request for punishment amounted to an approval of the plaintiff’s request for punishment and “the denouncer’s behavior”.⁶⁵

3.3.7 The Referral of the Case and the Legal Decision

In the course of the penal proceedings, the persons under charge might be put into custody if they were suspected of wanting to escape, or set at liberty on giving surety, before the police official might finally send the parties for trial before the competent court. *P.Oslo* II 17 illustrates such a proceeding.⁶⁶ After the culprits are asked to ἱκανὸν διδόναι (“give security”) to the local police representative, the case is referred to the *epistratêgos* for a decision. There are a few comparable instances of referrals to the *epistratêgos* from an inferior *stratêgos*, for example, in *BGU* I 168 and *SB* V 7601 C.⁶⁷ Why did the *stratêgos* feel incompetent to settle the case? The editor of *P.Oslo* II 17 seems to be right when he presumes that the *stratêgos* was not able to resolve the case because the suspects would not admit their guilt. When the accused persisted in asserting their innocence, the *stratêgos* was obliged to refer the case to a higher authority: “Let these two [...] appear before the most excellent *epistratêgos* when he rules in the case (οἱ δύο οὗτοι [...] ἐπὶ τὸν κράτιστο[ν] ἐπισ[τράτηγο]ν παραγένωνται ὅταν διαλαμβάνῃ περὶ τοῦ πράγματος)” (line 18). This κρίσις of *P.Oslo* II 17 states that the *epistratêgos* would make a distinct statement in the case (ὅταν διαλαμβάνῃ περὶ τοῦ πράγματος), which took as its point of departure the investigation of the case by the inferior *stratêgos*. This procedure then probably involved a subsequent examination (διάληψις) of the case, which eventually resulted in a decision.⁶⁸

64 San Nicolò 1932, 36; Taubenschlag 1959, 738; Kelly 2011, 183.

65 Eitrem and Amundsen 1931, 43.

66 For other examples of the payment of surety by defendants being required to guarantee their appearance in court, cf. *SB* XX 14401.29–30; *PLips.* I 32.15; *P.Wisc.* I 33.7–8. Similar cases of sureties are attested elsewhere in the Roman empire, cf. Oliver 1979, 543–558; Kelly 2011, 162 n. 191.

67 For a review of these papyri as compared to *P.Oslo* II 17, cf. Thomas 1982, 128.

68 Eitrem and Amundsen 1931, 42.

On the basis of the evidence of the Greco-Roman papyri it seems that the *epistratêgos* belonged with the prefect and the other Roman procurators in regard of judicial competence, or, as J.D. Thomas concludes with regard to the distinct levels of legal competence within the Roman administration: “In the judicial field, as in every other, the competence of the *epistratêgos* lay somewhere between that of the prefect on the one hand and the *stratêgos* on the other, but, as between the two, he bears a greater resemblance to the prefect.”⁶⁹ Eitrem interprets the term *παράγινομαι* in *P.Oslo* II 17, in the light of its occurrence in other papyri, to mean appearing before the *βήμα* of the *epistratêgos*.⁷⁰ Thus, after the Egyptian culprits were referred to the *epistratêgos* for a further examination, the verdict was eventually given, most probably from the judge’s seat on the platform (*βήμα*).

4 The Proceedings of the Jewish Police Authority

As I maintained above, *P.Oslo* II 17 is unique to the extent that it displays some of the main features of the Greco-Roman proceedings, and thus may help to situate the juridical facts reported in John’s narrative within the framework of the legal institutions of the Roman Empire.⁷¹ Thus, in the following analysis of John’s account through the lens of *P.Oslo* II 17, I will emphasize those features in the text that reflect the course of criminal proceedings against Jesus within the context of a Greco-Roman setting. Such an analysis would be an original contribution to the ongoing research on the Johannine lawsuit motif. In a comparative study of this kind, however, it is necessary to point to similarities *and* differences in the various relevant aspects of the legal proceedings reflected in the documents.

4.1 *The Legal Inquiry into Jesus*

In his study from 1935, Bickerman showed that Egyptian papyri such as *P.Oslo* II 17 described how criminals, before being ‘outlawed’, had been searched for by the municipal authorities.⁷² In a recent study, G.L. Parsenios revisited

69 Thomas 1982, 154.

70 Eitrem and Amundsen 1931, 42.

71 It is a presupposition of this study that the Egyptian province shared important legal traits with the rest of the Roman Empire, although that the legal proceedings of each province need to be investigated on its own terms, cf. Kelly 2011, 330–331; Fuhrmann 2012, 17–18; Bryen 2013, 141–142; Keenan 2014, 502–516.

72 Bickerman 2007, 766–767.

Bickerman's essay on this point and suggested that, as in the papyri, the tragedy of Sophocles' *Oedipus Rex* reflects the notion of 'investigation' (ζήτησις) in ancient Greek law. Parsenios takes his lead from R.G. Lewis' study of Sophocles' *Oedipus Tyrannus* and his definition of the issue, which reads:

The simple truth appears to be that Sophocles founded his exposition of Oedipus' self-discovery on the Athenian process of ζήτησις—the proceedings of a publicly appointed commission of ζητηταί or inquisitors charged with investigating a crime of public import committed by a person or persons unknown and with gathering information that would identify the criminals and lead to their prosecution.⁷³

Parsenios, following in the footsteps of Lewis, observes that *Oedipus Rex* exhibits this course of investigation, which he in turn applies to the various legal aspects of the Johannine narrative in texts such as John 1:19–34; 3:19–20; 7:34; 8:50, and 11:57. Parsenios' concludes his comparison of Sophocles with John as follows:

Now, to be sure, John did not know Athenian legal procedure, and whether or not John knew *Oedipus Rex* is impossible to determine precisely. Even so, it is likely that John knew of the kind of procedures whose vague traces Bickerman has studied. By reading John in light of *Oedipus Rex* we see a model for how a forensic ζήτησις can be dramatized, and this helps us to see new possibilities in John.⁷⁴

Parsenios' comparison of *Oedipus Rex* and John on legal aspects such as the investigative seeking, trying, and convicting of a criminal provides, indeed, an important contribution to the study of the lawsuit motif in John. However, since Parsenios subsumes the legal motifs in John, from the interrogation of John until the arrest of Jesus, under the broad notion of ζήτησις that is dramatized in the Greek tragedies, he neglects a closer scrutiny of the data from the Egyptian papyri to which Bickerman pointed.⁷⁵ Thus, in terms of Parsenios, "the kind of procedures whose vague traces Bickerman has studied" should still be examined and discussed in more detail.

⁷³ Lewis 1989, 50.

⁷⁴ Parsenios 2010, 133.

⁷⁵ Thus, Parsenios never explicitly refers to the protocol of *P.Oslo* 11 17. The only papyrus he refers to, in addition to the work of L. Mitteis/U. Wilcken (*Grundzüge und Chrestomathie der Papyrusfunde* 1:2; Hildesheim: G. Olms, 1963), is *P.Bour*.

Bickerman pointed out that various forms of ζητέω and its cognates might be used in a more narrow sense about fugitives who were searched for, in order to get hold of them. Against such a background, Bickerman suggested that John's narrative resembled the same procedure and terminology for searching Jesus as a criminal, who officially had made himself a fugitive.⁷⁶ R.E. Brown objects to Bickerman's thesis and maintains that he is reading the Johannine account through the lens of the technicalities of Roman ordinary law, which "was not so simply applicable to an imperial province like Judea, administered by extraordinary law."⁷⁷ Furthermore, in Brown's judgment, the ancient authorities Bickermann refers to are influenced by "their own experiences of official Roman decrees against Christians where harboring a proscribed fugitive was indeed a crime."⁷⁸ While Brown's reference to Christian authorities, such as Origen and Cyprian, might be plausible, our present knowledge of the Roman provincial administration weakens the hypothesis that the Roman province of Judea was administered according to unique procedures of its own.⁷⁹ In general, it was the responsibility of the provincials to hand over accused persons to the Roman tribunal. Such a procedure involved in most cases an investigation, in which the municipal police officers might be commissioned to search for the fugitive, ensuring that he appeared before the local police authority for a hearing, before he was brought to the Roman governor. It is my suggestion that an analysis of *P.Oslo* II 17 and the course of events pictured in the Johannine story-line enables us to trace features of such a provincial procedure with which the authors assumed their readers were familiar.

In the examination of *P.Oslo* II 17 above, I inferred from the use of the verb ζητέω in line 10 that the *stratēgos* had ordered an investigation in order to get hold of the fugitives. We might also presuppose that the *stratēgos* had commissioned the local police officers to search for them, with the aim of bringing them back for a legal examination (cf. the expression ἐπὶ τῆς διαγνώσεως [τοῦ] πράγματος in line 10–11). And since they had disappeared as fugitives, the inquiry into them obviously continued, until they finally showed up, after being publicly proscribed. In John, the verb "to seek", ζητέω, is used 34 times.⁸⁰ Since the

76 Bickerman 1986, 766–767.

77 Brown 1994, 289.

78 Brown 1994, 290.

79 Cf. Cotton 2002, 17–18; 2007, 244–247; for a recent survey of research, see Liebs 2012, 102–103, 231–235, and Bryen 2013, 126–164.

80 For the use of ζητέω, along with the infinitive of ἀποκτείνω, with the purpose of killing

word ζητέω may define various activities in the narrative of John, it is obvious that each case needs to be determined separately. It is worthy of notice that in some instances the meaning of ζητέω seems to refer to a legal searching for Jesus as a criminal fugitive whose whereabouts were unknown, and this might have been undertaken by the Jewish and Roman authorities in collaboration. Let us first look at the element of evasion which drives large parts of the narrative in John.

In the narrative of John 5–10, there is a connection between the attempts of the Jews to kill Jesus and his hiding in order to evade being captured. This evasion from the death-threat on the part of the Jews is mentioned several times.⁸¹ In 5:13, Jesus slipped away (ἐξένευσεν) when the Pharisees tried to interrogate the cripple whom Jesus had healed. In 6:15, after the feeding miracle in the desert, Jesus takes refuge (ἀνεχώρησεν) to the hills by himself when he understands that the crowd wishes to make him a king by force. From the papyri we learn that this Greek term, which characterizes the flight of Jesus, is the common word for evasions of this kind.⁸² In 7:1, Jesus retreated from Judea, “because the Jews were looking for an opportunity to kill him.” Yet, in 7:10, Jesus follows the recommendation of his brothers not to stay in secret away from the approaching Feast, and thus goes up after his brothers to the Feast of the Tabernacles, however, not manifestly but as “in secret” (ἐν κρυπτῷ). In John, the persons who searched for him were close to the point of seizing him, but each time he escaped. The reference to the murmuring of the crowds in 7:12 is reiterated in 7:32, and provides the ground for the Pharisees and the chief priests to send police officers to bring him (cf. 7:45–46).⁸³ In 8:59, after having described Jesus’ exchange with his interlocutors, John narrates: “At this, the Jews picked up stones to stone him, but Jesus hid (ἐκρύβη) himself and slipped away (ἐξῆλθεν) out of the temple.” In 10:39, Jesus slipped away (ἐξῆλθεν) from the hands of the Jews who tried to seize him. In 11:54, John tells us that, after the high priest and the Sanhedrin had made the resolution to put him to death, “Jesus therefore no longer walked about openly among the Jews, but went from (ἀπῆλθεν) there to a town called Ephraim in the region near the wilderness;

Jesus, see the previous chapter. See also Dennis (2009, 161–165), for a recent analysis of the use of ζητέω in John.

81 Cf. Stibbe 1993, 19–37.

82 See e.g. *Chrest. Wilck.* 324 and *BGU* II 372; cf. Cowey 1995, 195 n. 4; Lewis 1996, 64–65; Bickerman 2007, 766. It is worthwhile to note that Origen, *Comm. Jo.* to John 11:54, applies the same word to Jesus’ flight.

83 Cf. Attridge 2010, 112–113.

and he remained there with the disciples.” From 11:56 we know that people searched for (ἐζήτουν) him because of the reasons stated in v. 57, that the Jewish authorities had called for informants about his whereabouts in order to arrest him. Six days before the Passover feast, he appeared again, this time in Bethany in the home of Lazarus, whom Jesus had raised from the dead. His arrival attracts the attention of a number of Jewish people (12:9), and the following day Jesus makes his triumphant entry into Jerusalem (12:12). Even though Jesus experienced great popularity because of the sign he had done to Lazarus, the Pharisees were powerless and could not intervene against him (12:19). Again, Jesus “withdraws” (ἀπελθών) and “hid” (ἐκρύβη) once more (12:36). This time it was final.

In chapter 18, the legal searching for Jesus is resumed. Here, almost in a secret place of protection, beyond the river Kidron (18:1), Jesus asks those who were about to arrest him: “Whom are you searching for (ζητεῖτε)?” (18:4); he repeats the same question in 18:7: τίνα ζητεῖτε; Then, finally in v. 8, Jesus says: “if you are searching for me (ζητεῖτε), let these men go.” Eventually, then, the legal searching for Jesus as a fugitive, fleeing from his persecutors, leads to his arrest, and he is brought to court.

4.2 *The ‘Proscription’ and Denunciation of Jesus*

We have observed that both *P.Oslo* 11 17 and certain texts in John attest a legal search for a fugitive commissioned by the local municipal police. I shall now turn to some further details that can be compared between these texts, i.e. the legal means involved in order to get hold of him as a person whose whereabouts were unknown. These measures could include the ‘proscription’ or some kind of a “warrant” issued for the denunciation of the suspect.

In *P.Oslo* 11 17 we noticed that the suspects apologized that they were working on an estate long away from home. This indication of the reason why they were hiding was apparently perceived by the *stratêgos* as a false excuse and a lie, as his demand makes clear: “Confess the truth” (line 14). Moreover, we observed that the suspects did not appear, despite the search for them, until they were ‘proscribed’ (line 10–11).

If we look at John’s account, it seems that Jesus’ situation was comparable to that of the suspects in *P.Oslo* 11 17 in many ways. Jesus too evades capture in spite of the ‘writ’ issued for his denunciation provided by the chief priests and the Pharisees. Let us have a closer look at John 11:57 and the legal means which are employed in order to get hold of Jesus. We read there that when Jesus, as the delinquent, disappeared, the chief priest and the Pharisees called for informants to provide information (μηνύω) of his whereabouts, so that Jesus could be arrested. According to Bickerman, this administrative measure on the part

of the Jewish authorities was almost similar to a public ‘proscription’ attested by the papyri: “[...] his name [Jesus] was put on the register of the ‘wanted’”,⁸⁴ since he was apparently perceived as guilty of the charges against him. On the one hand, I concur with Bickerman’s view that the picture in John 11:57 may recall a ‘proscription’, if not in the technical sense of this legal action. Although the technical terminology for ‘proscription’ (e.g., the verb προγράφω or the noun προγραφή) is missing in John, the legal terminology of δίδωμι [...] ἐντολάς points to a public writ of some sort that could evoke the function of the ‘proscription’. Taken together with the legal actions involved in the verbs ζητέω and μνηύω in the immediate literary context, we seem to have an indication of the various actions which might be necessary to get hold of the fugitive. Brown argued against Bickerman’s thesis of an official ‘proscription’ in 11:57 by referring to 18:30 and arguing that in John’s mind, the Sanhedrin probably did not have legal authority on its own to sentence and execute Jesus. If this was true, it was doubtful whether he was officially ‘wanted’ when he hid from them.⁸⁵ This argument fails to convince, however, in the light of the evidence of *P.Oslo* 11 17. Here we have seen that the provincial police authority, without the legal competence to judge, nevertheless practiced the right to ‘proscribe’ the fugitives as one investigative means of getting hold of them. On the other hand, it seems reasonable to make a distinction between an official ‘proscription’ and a denunciation, which Bickerman blurs, namely, that a ‘proscription’ was a punishment inflicted because of the flight of the criminal, while a denunciation might aim at information that made possible an apprehension of the fugitive. An illustration of the latter kind seems to be preserved in *P.Bour.* 21 (139–145 CE),⁸⁶ in which the denunciation is made that a certain Sarapas is in town, so that it is possible to pursue him: μνηύω Σαραπᾶν Ἡρακλείδου μη(τρὸς) Διοδώρας εἶναι ἀνὰ πόλιν. διὸ ἐπιδίδωμι ἵνα τὸ [ἄ]κόλουθον γένηται (“I inform that Sarapas, the Son of Heraclides, whose mother is Diodora, is in town. Thus I submit (this document) in order that he may be pursued”). Bickerman comments on this papyrus: “How did the author of this text, a cobbler in the village of Caranis, know that the authorities were looking for Sarapas? The answer is that the names of the ‘out-lawed’ were published everywhere.”⁸⁷

Pace Bickerman, we need to be cautious about inferring from the sole denunciation reflected in this papyrus that Sarapas had been searched for and ‘proscribed’ by the authorities in advance, like the fugitives in *P.Oslo* 11 17. This is

84 Bickerman 2007, 768.

85 Brown 1994, 289–290.

86 For a similar reading of *P.Bour.* 21 as a case of denunciation, cf. Kelly 2011, 301.

87 Bickerman 2007, 767–768.

to presuppose information we cannot take for granted. When petitions were made to the authorities, however, requesting that the offender might be pursued, it was not uncommon to reveal the name of the criminal. Information that was provided to capture the criminal was also solicited by the proclamation of rewards.⁸⁸ This phenomenon of μῆγυσις is also described in Philo⁸⁹ and dramatized in Greek literature.⁹⁰ All the same, it seems safe to assume at least that the chief priest and the Pharisees had authorized a denunciation (μηνύω) of Jesus as a fugitive, hiding from the Jewish policing authorities, in order to elicit information of this person's whereabouts.

Bickerman draws further inferences from the hypothesis that Jesus was actually 'proscribed' by the Jewish authorities. In his view, "it makes it easier to understand a number of traits in the passion narrative of the fourth Gospel which at first sight seem strange."⁹¹ I will discuss some of the traits Bickerman hints at below. I begin with some brief remarks on the Johannine account of the arrest of Jesus.

4.3 *The Arrest, Hearing, and the Referral of the Case*

If we are to understand the arrest scene, it is important to bear in mind that under the Roman Empire, public security and order were the responsibility of the local municipalities. The civilian inhabitants of the town were also conscripted for such an enterprise.⁹² The obligation to aid the local police to capture criminals whom they were searching for is attested for Roman Judea too. Thus, Josephus relates that when an imperial slave committed a burglary near the village of Bethhoron, the procurator Cumanus (48–52 CE) "had the inhabitants of the neighboring villages brought before him in chains, and accused them of not having pursued and arrested the brigands" (*J.W.* 2:229). Similarly, an Egyptian papyrus claims that if those who are authorized to summon and seize brigands fail to appear, they are to be sent in chains to the prefect.⁹³

88 Cf. Taubenschlag 1944, 420.

89 In *Spec.* 3:159, Philo refers to the issue of μῆγυσις when describing the means by which a tax collector tried to get hold of a fugitive. Cf. Bammel 1970, 34.

90 Cf. Parsenios (2010, 54–58), who refers to Andocides 1:13–19, 23, 27, 32, 34, 40, 42, 54, 59; Thucydides 6.27.2, 28.1, 29.1, 53.1, 60.4; Sophocles, *Oedipus Rex* 102 for the association of investigative search and the information provided. On Sophocles, see also Lewis 1989, 50; Knox 1957, 78–98.

91 Bickerman 2007, 768.

92 See Kelly 2011, 97–98; Fuhrmann 2012, 75–82.

93 Cf. *Chrest. Wilck.* 472.

When we turn to John, we see, as in these texts from Josephus and the papyrus, that both the common people and the local police authorities were involved in capturing Jesus as a criminal and bringing him to a legal hearing. The involvement by the common people may be implied by texts such as 7:30, 44 and can be inferred explicitly from John 11:57, describing the denunciation of Jesus by the people so that he can be arrested. Following the order of the Jewish police authorities, Judas plays the role of the informant, who provided the necessary denunciation that eventually brought about the arrest of Jesus (John 13:31; 18:2–5). As we pointed out above, informants may have played an important role in corresponding police operations to apprehend criminals in the Greco-Roman proceedings.⁹⁴ The terminology of the ‘officers’, ‘attendants’, ‘servants’ in the narrative of John seems to reflect a distinct policing function under the command of “the chief priests and the Pharisees”, who represented the superior municipal security authority in Jerusalem.⁹⁵ It is interesting that the Greek term for ‘officer’ in John 7:32, 45; 18:3, 12, ὑπηρέτης, which in the New Testament is used most frequently in policing situations, is the same word that is used for the police officers under the command of the *stratêgos* in the papyri.⁹⁶ In John, it is the chief priest and the Pharisees who exercise

94 Judas “takes” (λαμβάνει) the cohort (John 18:3), and Josephus employs the same phrase when he says of an informant at Antioch: “having taken (λαμβάνει) soldiers from the Roman governor” (*J.W.* 7:52).

95 Although these officers may not be the same persons as the temple police, it is interesting that in Acts 5 the very same words are used as in the papyri. Thus, the servants (ὑπηρέται) in Acts 5:26 are obviously overseen by the superior police officer of the temple, called στρατηγὸς τοῦ ἱεροῦ. Moreover, according to Acts 5:27, the *stratêgos* of the temple apparently stands under the command of the high priest of the Sanhedrin. Martyn (1968, 85–86) takes ὑπηρέτης to be equivalent to the Hebrew Chazzan, and suggests that the Chazzanim “may equally well refer to the Levitical Temple police, who were at the beck and call of the Sanhedrin (via its high priestly members), and to the beadles of a local court, among whose functions may have been that of summoning litigants for trial before a local Gerousia.” J. Blinzler (1969, 126–128) argued against the view that the ὑπηρέται should be associated with the temple police. In his view, there is no evidence to support such an understanding. Blinzler interprets ὑπηρέτης as “Gerichtsdieners”. He agrees fully with the conclusion of K.H. Rengstorff (*TWNT VIII* (1969), 541), whom he cites: “Der Kontext der angeführten Stellen scheint es nahezu legen, überall die ὑπηρέται als Gerichtsdieners des Synedriums von den als Tempelpolizei dienenden Leviten, vgl. Jo 7, 30.44; 8.20; 10.39; Apg 4.3, zu unterscheiden.” According to Brown (1994, 249–250), the ‘attendants’ seem to have a clearly policing function.

96 Cf. *P.Flor.* 1 69; *P.Tor.* 13; *P.Oxy.* 1 65. See Wenger 1902, 138; Taubenschlag 1916, 98; Berneker 1930, 90. On the vocabulary of the police officials in the Roman period, cf. Bryen 2013, 322 n. 33.

the command of a police force in Jerusalem. Hence, it is they who dispatch the officials according to both 1:19–28 and 7:32, and correspondingly, according to 11:57 it is they who give the order to the people to denounce Jesus in order to have him arrested.

According to John 18:10, a certain Malchus was a servant who helped the high priest to arrest Jesus. It is not unreasonable to suggest that he was one of the so-called *servi publici*, slaves who assisted the policing magistrates in the Roman empire, such as the high priest in Jerusalem.⁹⁷

As we noticed above, within the framework of the legislation in Greco-Roman Egypt it is reasonable to say that the accused individuals could not be arrested and taken into custody before they were found guilty. Accordingly, officers of the policing authorities (cf. 7:32) were given an order to send Jesus (cf. 7:45) for a legal ‘hearing’, before any sentence was pronounced in the court of law. The procedural remark made by Nicodemus in John 7:51, calling for a due process of law, supports this interpretation: “Our law does not judge a person before first hearing from him and learning what he is doing, does it?” Thus, “to seize”, not to “arrest”, would seem to be the most adequate way of translating the Greek verb *πιάζω* in these texts, since Jesus was not at that time sentenced and found guilty in the legal sense.⁹⁸ Moreover, a little detail concerning the arrest of Jesus in the gospels of Mark and John may also substantiate this connotation of *πιάζω*. As Bickerman pointed out, according to the gospel of Mark, Jesus was arrested only *after* he was declared guilty by the Sanhedrin.⁹⁹ Thus, Mark 15:1 states that Jesus is “bound” only when he is brought to Pilate, after the Sanhedrin had decided to refer his case to the Roman tribunal—“for it is only from that moment on that he is (technically speaking) an accused.”¹⁰⁰ According to John 18:12, however, Jesus is “bound” (*δέω*) as soon as he is apprehended (*συλλαμβάνω*), probably because he is recognized as a guilty fugitive who had already for some time been the object of a search, and because he might therefore reasonably might be suspected of wanting to escape. Thus, Jesus is ‘sent under guard’ to the ‘hearing’ before the high priest, reasonably because such a coercive measure was found appropriate in Jesus’ case.¹⁰¹

97 I owe this observation to Fuhrmann 2012, 65 n. 69. In general, on the role of the *servi publici* as a policing ministry in the Roman empire, cf. Eder 1981, 84–85, 98; Fuhrmann 2012, 64–65.

98 John uniquely uses the verb *πιάζω* both for the non-official detaining of Jesus (7:30; 44; 8:20; 10:39) and for the official arrest of him (7:32; 11:57). See Dennis 2009, 166–168.

99 Bickerman 2007, 773.

100 Bickerman 2007, 773.

101 Cf. for orders of being ‘sent under guard’, *P.Oxy.* I 64; 65; XII 1506; XLIV 3190; LXXIV 5010.

According to Bickerman, Jesus' arrest as an 'outlaw' followed logically from the fact that he was 'proscribed' according to John 11:57.¹⁰² Once again, however, Bickermann seems to overstate the function of the so-called 'proscription' in John and the difference between the procedures in Mark and John. Thus, it is probably more correct to suppose that John and Mark followed the same rationale for the procedure of an arrest, i.e., that an arrest could occur only after Jesus was charged according to the procedure of the law. Features associated with a regular process of a 'trial' can be found scattered throughout John's gospel. For example, an indication of such a formal proceeding seems to be provided by John, when he reports that the resolution to put Jesus to death (cf. 11:47, 57) was based on a legal charge according to the rule of the law: "We have a law, and according to that law (κατὰ τὸν νόμον) he ought to die because he has claimed to be the Son of God" (John 19:7). Moreover, the context for the phrase κατὰ τὸν νόμον may include the judicial action that is taken, as we read in John 18:31: "Pilate said to them, 'Take him yourselves and judge him according to your law (κατὰ τὸν νόμον ὑμῶν).'" At that moment, as Millar suggests, it was perhaps not Roman law, but their own, that made the Jews reply: "'We are not permitted to put anyone to death.'" ¹⁰³

After the arrest by Roman soldiers and the municipal Jewish police servants at the garden of Gethsemane, Jesus was brought to the house of Caiaphas, so that the examination of his case could be completed. Here Jesus is first led to Annas, and further to Caiaphas for interrogation (John 18:13, 24). The inclusion of the Jewish questioning at this juncture in the Johannine account has been seen as a problem, since if Jesus was arrested by the Romans, he should have been brought directly before Pilate.¹⁰⁴ H. Bond states the problem and gives the following explanation:

The presence of Roman soldiers in Jesus' arrest (whether historical or not) would naturally lead the reader to assume that Jesus would be taken into *Roman* custody, and it is the lengthy Roman trial that will dominate John's passion narrative. The most reasonable explanation for including the apparently lack-luster Jewish interrogation is that John is simply drawing on a tradition too well known to omit [...] ¹⁰⁵

¹⁰² Bickerman 2007, 773.

¹⁰³ Millar 1990, 380.

¹⁰⁴ See Liebs 2012, 103–104.

¹⁰⁵ Bond 2009, 315.

Many scholars explain the incorporation of the interrogation before the Jewish authorities by referring to the tradition Bond hinted at, that is, the 'trial' motif embedded in the literary plot prior to this text.¹⁰⁶ Thus, the Evangelist has depicted the whole of Jesus' ministry from chapter 5 onwards as a 'trial', including Jesus' judicial exchange with the Jewish leadership (5–7; 10:22–39), and the death sentence passed against Jesus by the high priest Caiaphas and the Sanhedrin (11:47–53). Bond and other scholars are certainly right to point to early gospel traditions and compositional factors in order to explain this issue, but they appear at the same time to neglect the legal factors that might provide a simpler explanation of why John arranged the tradition within a particular legal order of procedure.

Bickerman has resolved the issue of why Jesus was not taken into Roman custody by pointing to relevant parallels in both papyri and accounts of early Christian martyrs that make it reasonable to imagine that the Roman troops would have collaborated with the municipal policing forces, as John 18:12 attests: "So the soldiers, their officer, and the Jewish police arrested Jesus and bound him."¹⁰⁷

Moreover, the main reason, perhaps, why Jesus is first brought to the Jewish authorities, is due to the *legal course of proceeding* apparent in e.g. *P.Oslo* II 17 and in John: it is quite natural that the accused criminal would be handed over first to the policing magistrates who had been searching for him and who had contributed to his arrest, before the case was eventually referred to a superior judicial level for further jurisdiction. Thus, it also seems natural that Jesus would be handed over first to the official Jewish policing magistrates who were searching for him, represented here by the high priest. The comparison of the Jewish police-authorities in Jerusalem with the policing function of the *stratêgos* may be relevant to the information that Jesus is brought "first" (πρῶτον) to the high priest for interrogation (18:13), and "then" (οὕτως) referred further to the headquarters of the Roman prefect (18:28). This instance of referral was reasonably the result of the high priest recognizing his lack of jurisdictional competence to try this matter under the special circumstances (cf. 18:31). We do not know for sure, however, if the high priest himself was present at the interrogation by the prefect, or whether he was represented by the chief priests and the police servants (19:6).

¹⁰⁶ See e.g., Lincoln (2000, 34), who speaks of "the trials of Jesus before Israel and before Pilate."

¹⁰⁷ Bickerman 2007, 771; cf. most recently, Fuhrmann (2012, esp. pp. 123–145; 201–238) on the subject of military policing in the Roman world.

Why then does John skip the interrogation by *the Sanhedrin*? In Bickerman's judgment, this is the basic issue to which the administrative measure of 'proscription' can afford an explanation: Jesus is already presumed to be guilty by virtue of the fact of his 'proscription'.¹⁰⁸ Again, Bickerman's emphasis on the significance of the 'proscription' seems exaggerated, in order to permit him to explain the course of the penal proceedings in John's gospel. Accordingly, it is misleading to maintain that John omitted the interrogation of the Sanhedrin as almost superfluous, because Jesus was perceived officially as guilty on the account of the procedure of 'proscription'. As Bickerman himself observed, *P.Oslo* II 17 attests that an examination could take place even after a proscription, when the accused appeared before the *stratêgos*.¹⁰⁹ Thus, it would seem more to the point to suggest that John's intention in including the examination before the high priest was to provide a link to the referral of the case before the Roman jurisdiction. This is confirmed by the observation that John omits any reference to a 'trial'. He has no courtroom setting, no attempt to convict Jesus through witnesses, and no accusations of crimes. Instead, Jesus stands alone in front of the high priest Annas and a couple of attendants. What we have here seems more like a brief fact-finding investigation once Jesus has been taken into police custody. Furthermore, John's characterization of the setting of the examination of Jesus is on a par with the one attested by *P.Oslo* II 17. Both texts report that the official policing magistrate, the *stratêgos* and the high priest Annas, were surrounded by a few other police attendants present. Moreover, according to the Oslo papyrus, there were also a plaintiff and a witness present in addition to the accused. Jesus wished for a kind of hearing more like the one depicted in *P.Oslo* II 17, when he demanded of Annas that witnesses and evidence should be produced (18:21). In R. Brown's words, we can certainly conclude concerning John's 'report' that "we are in the atmosphere of a police interrogation of a newly arrested criminal before any formal trial procedures are begun."¹¹⁰ This proposal is confirmed by further observations on the text of John as compared to *P.Oslo* II 17, to which I now turn.

Like the *stratêgos* in *P.Oslo* II 17, Annas examines the offender, but not as an *examining judge*. In Bickerman's words, he "simply questions Jesus in his

¹⁰⁸ Bickerman 2007, 773.

¹⁰⁹ Bickerman 2007, 773, n. 209: "I do not claim that this was the only procedure with regard to one who was 'wanted.' The *cognitio* is extremely elastic in the application of the general norms. In the Oslo papyrus [...] the *stratêgos* confronts the 'outlaws' with their accusers, etc."

¹¹⁰ Brown 1970, 2.834.

capacity as a magistrate of police.”¹¹¹ As in the examination of the accused in *P.Oslo* 11 17, it is to be expected that the interrogation of Jesus consists of questions and answers. In the interrogation by Annas, Jesus is asked about his disciples and his teaching, as if these issues belonged together. Why just these two issues? And is there a reason why precisely these two questions are raised, in view of the literary context of the interrogation scene? A clue towards an answer to these questions may be provided by the legal proceedings.

(1) If Jesus is charged with subversive activity, by gaining a large following (i.e. disciples) to pose a threat to both to the Romans and the Jewish nation (11:45–52), is it not, then, reasonable that he is asked whether he had any accomplices, e.g., amongst his disciples? Two observations may point to an affirmative answer: First, Justinian in his *Digesta* explains that “irenarchs, when they had arrested robbers, should question them about their associates and those who harbored them, include their interrogatories in letters, seal them, and send for the attention of the magistrate” (*Dig.* 48.3.6.1).¹¹² Second, in Jesus’ emphatic answer ἐγὼ εἶμι at the arrest scene (John 18:5, 6, 8), Jesus explicitly denounced himself, and at the same time made it clear that the disciples were not guilty as his accomplices: “So, if you are searching for me, let these men go” (John 18:8). (2) But why, then, does John emphasize the same answer as part of the interrogation scene? If we presuppose, following the suggestion of W.A. Meeks, that the high priest’s question about Jesus’ teaching draws on the concept of a deceiver who leads others (in this case, the disciples) astray (Deut 13:1–5) or of a false prophet who presumes to teach on behalf of God (John 18:20), the answer is provided not so much by Jesus’ direct response as in the interwoven story of Peter.¹¹³ At the exact moment that the high priest asks Jesus if he is a deceiver, we see how Jesus’ words to Peter in John 13:36–38 are fulfilled: “Jesus stands up to his questioners and denies nothing, while Peter cowers before his questioners and denies everything.”¹¹⁴ Thus, since Peter’s denial confirms that Jesus’ words about him come true, John explains that Jesus is neither a false prophet nor a deceiver. Furthermore, in John, Peter’s threefold denials correspond to Jesus’ threefold assertion at his arrest, and as Bond surmises, “the link back to the garden scene in 18:26 seems to confirm this connection.”¹¹⁵ This means that while Jesus’ confessions at his arrest defend

¹¹¹ Bickerman 2007, 772.

¹¹² Translation according to Watson 1985, 802.

¹¹³ Meeks 1967, 38.

¹¹⁴ Brown 1970, 2.842.

¹¹⁵ Bond 2009, 320.

his disciples from any potential charge of being accomplices, Peter's denials in contrast denounce his own discipleship. Jesus' reply to Annas in 18:21 ("Why are you asking me? Ask those who heard what I said to them. They know what I said") amounts to the same conclusion: Jesus is not a deceiver, and the disciples are not his accomplices in some kind of a secret conspiracy. Since there were many people who have heard him teach in public and were able to testify (18:20), Jesus demanded that the high priest Annas should produce evidence of witnesses, which was essential to any proper examination. A parallel is once again provided by *P.Oslo* 11 17.5–8,12–13, and the references there to the interrogation of Haronnesis by the *stratêgos* as a witness, both before and during the official examination of the case.

According to Lincoln, John's referral of Jesus to Caiaphas before he is taken to Pilate "is superfluous to his own narrative, since he relates absolutely nothing about any actual encounter with Caiaphas. This last move is the least satisfactory in terms of the coherence of the evangelist's own narrative, but it is forced on him by the tradition."¹¹⁶ *Pace* Lincoln, from a procedural point of view, the cumulative data in *P.Oslo* 11 17 and other Greco-Roman papyri confirm that John's account follows a conventional order of proceedings. John is the only evangelist who speaks of a transferal of Jesus from Caiaphas to Pilate's headquarters (18:28), on the presumption that there had been a meeting of Jesus with the high priest at their houses. Since it was Caiaphas who initiated the penal course of the legal proceedings against Jesus (cf. the *inclusio* in 18:14 referring back to the statement in 11:49), it was only natural that he was also in charge of accusing Jesus before the Roman tribunal. Accordingly, in both *P.Oslo* 11 17.14–15 and John 18:24, the transfer of the alleged criminals was taken care of by the municipal police magistrates, who ensured that they were in a kind of preventive custody, before they would appear before the court of the higher authority. Accordingly, the *stratêgos* ordered that the Egyptian accused should pay a security, while Annas sent Jesus bound to Caiaphas the high priest. To sum up, the legal hearing of Jesus before the Jewish magistrates and the subsequent referral of the case to the co-existing and superior jurisdiction of the Roman prefect cohere well with the literary account of the series of investigative actions taken against Jesus in the context of John 1–12 and with the course of forensic procedures of the Greco-Roman administration.

116 Lincoln 2005, 450.

5 The Proceedings before the Roman Governor

In the remainder part of this chapter I shall take a brief look at a few features of the proceedings before Pilate that seem to have some resemblance to the Greco-Roman proceedings, at least as we can infer these from the Roman Egyptian papyri supplemented by data drawn from the writings of Josephus and Philo. On the basis of the scanty hints of juridical facts in John, the task is to try to fill in the gaps on the basis of parallels provided by these other sources. I shall survey some core elements of the kind included in John's account of the legal proceedings: (I) The legal procedure of accusation (Lat. *accusatio*) and the role of the Jewish authorities as accusers (Lat. *delatores*); (II) The preliminary hearing of Jesus by Pilate, analogous to the procedure of ἀνάκρισις in Greek Law; (III) The features of a protocol form embedded in Pilate's interrogation of Jesus; (IV) The judgment of Jesus in an open court session (Lat. *pro tribunali*).

5.1 The Procedure of Accusatio

The involvement of the Jewish authorities in the further process is expressed in John's statements that they 'bring' Jesus and that they have him 'handed over' to the Roman governor; "Then they bring (ἄγουσιν) Jesus from Caiaphas to Pilate's headquarters" (18:28); "If this man were not an evildoer, we would not have handed him over (παρέδωκαμεν)" (18:30); "Your own nation and the chief priests have handed (παρέδωκαν) you over to me" (18:35). The verbs ἄγω and παραδίδωμι are elsewhere used legally in a similar way to denote a transfer to a co-existing jurisdiction for further examination or trial.¹¹⁷ In two orders for arrest in *P.Oxy.* I 64 and 65 (although from the third or early fourth century CE) the verb παραδίδωμι denotes the handing over of two arrested persons sent under guard:

From the Decurion to the comarchs and guardian of the peace of the village of Teis. Please deliver (παράδοτε) at once to the soldier whom I have sent, Ammonius, surnamed Alacer, who is accused by Ptollas, or else come yourselves. Signed.

P.Oxy. I 64

¹¹⁷ It would seem that the Jews do not submit a sentence of their own to Pilate for his ratification; rather, they initiate a *new procedure* by referring the accused to the prefect, and by accusing him before the Roman tribunal; cf. Bickerman 2007, 784.

From the beneficiaries on duty to the comarchs of the village of Teruthis. Deliver up (παράδοτε) to my officer whom I have sent, Pachoumis, son of Pachoumis, whom you have arrested to-day and brought to your village, being a citizen. If you have anything to say in his favour, come with him and tell me. See that you do not disdain the officer. Signed.

P.Oxy. 165

Josephus uses the verb ἀνάγω (cf. ἄγω in John 18:28) to describe how Jesus, the son of Ananus, was brought up to the Roman Governor Albinus by the Jewish magistrates in 62 CE. Jesus, the son of Ananias, had stood in the temple of Jerusalem and predicted day and night destruction of Jerusalem and the temple. This had apparently not troubled the Roman governor and his garrison, since he did not understand the language which he spoke. Accordingly, it was the Jewish 'magistrates' who eventually arrested (συλλαμβάνω, cf. John 18:12) and examined him, and eventually bring (ἀνάγουσιν) him up to Albinus (Josephus, *J.W.* 6:303). As Bickerman comments: "The circumstances of this collaboration between the Sanhedrin and the procurator are strongly reminiscent of the case of another Jesus—Jesus of Nazareth."¹¹⁸

According to the proceedings of the Roman administration, Jesus could not be handed over to the Roman governor without the necessary information about the results of the preliminary examination. The use of the verb 'handed over' (παράδιδωμι) seems to indicate a procedure like the one concerning the robbers referred to above from Justinian, *Dig.* 48.3.6.1, where Pilate as the magistrate was informed about the contents of the accusation. This is to be inferred by the accusation that is given in 18:30 as the reason why he was handed over: "If this man were not an evildoer, we would not have handed him over (παρεδώκαμεν)". In this case, the chief priests, in the role of the municipal police, act as prosecutors whose function was to examine the matter of the denunciation and to ensure that the defendant appeared before the Roman tribunal to be prosecuted. In general terms, therefore, the Roman governor would only have allowed a case to be brought to trial by the persons who intended to bring the formal accusation and act as prosecutor.

The legal procedure envisaged behind this text is similar to the Roman process of *accusatio*, as opposed to *inquisitio*. In the former legal action, an accuser appears before a judge with charges against an alleged offender as in Acts 18:12–17, where Paul's Jewish opponents are the accusers of Paul before Gallio. In the process of *inquisitio* the Roman governor can institute proceedings himself,

¹¹⁸ Bickerman 2007, 747.

independently of any person who would inform him that someone needs to be prosecuted.¹¹⁹ This process of *accusatio* is also expressed in Acts 25:16 by the governor Felix: “I told them that it was not the custom of the Romans to hand over anyone before the accused had met the accusers face to face and had been given an opportunity to make a defence against the charge.”¹²⁰ Taubenschlag has shown by means of a comparison with Greco-Roman papyri that the case against Paul and his trial according to Acts 23 follows such a procedure of penal prosecution.¹²¹

When I now turn to analyze some further aspects of Pilate’s examination of both parties, we will see that the chief priests act as prosecutors, while Jesus plays the role of the defendant, who is given the right to accept or refuse the descriptions which the accusation gives of him.

5.2 *The Legal Character of the Hearing*

Let me begin with a brief survey of the literary context in John’s narrative. The narrative account of Pilate’s preliminary hearing in John (18:28–19:16a) is made up of seven carefully constructed episodes.¹²² In the first episode, Jesus is accused by the chief priest before Pilate (18:28–32). As we indicated above, at the handing over of Jesus, Pilate would seem to have been informed about the accusation made against the prisoner, either in writing or orally. However, we can assume that Pilate was obliged to test the validity of the allegations and to conduct a thorough investigation of his own. It is interesting to observe how John begins his narrative. He asks the accusers the principal legal question, without dwelling on details about the circumstances surrounding the defendant, such as a preliminary question about the identity of the accused. Thus, Pilate first asks the Jews about the charge: “What accusation do you bring against this man?” Once more, *P.Oslo* II 17.5 provides an analogy. Here we find a similar way of introducing the narrative. Without indicating anything about

119 Cf. Cook 2010, 271, and his discussion of Hadrian’s rescript in the light of this distinction.

120 Bickerman (2007, 750) points out that the same principle in which the defendant is heard also must be observed in the case where the defendants had been brought before the governor by the local authorities. He quotes *Dig.* 48.3.6.1 as evidence: “The accused who are brought before the higher court on the basis of a report by the security officers (*elogium*) must be heard *ex integro*, whether they have been sent with an accompanying letter or have been brought by the *irenarchs*” (quoted according to the English translation of Bickerman’s article). For a recent analysis of Acts 25 in the light of Roman legal proceedings, see Rowe 2009, 79–87.

121 Taubenschlag 1959, 2.721–726.

122 Cf. Brown 1970, 2.858–859.

the circumstances of the matter, the principal question put by the *stratēgos* to the informant Haronnesis is: “What did you say about these (men)?”

As we have noticed, the Jews do not specify their accusation against Jesus, except to say that he is an evil-doer, i.e., in general terms, a ‘criminal’. Nevertheless, in the second episode (18:33–38a), when Pilate goes into the *Praetorium* to examine Jesus, the first question he asks Jesus indicates that the Jews have already informed him about the nature of the accusation. Initially, Pilate refuses to investigate the matter: “Take him yourselves and judge him according to your law” (18:31). On the other hand, the first words which Pilate speaks to the accused indicate that he also lets Jesus react to the accusations that have been made according to legal practice: “Pilate [...] said (εἶπεν) to him, You are the king of the Jews” (18:33).¹²³

Their ensuing discussion of this question in the third episode (19:38b–40) ends with Pilate’s declaration that Jesus does not deserve punishment. Thus, his examination of the two parties seems to have reached a conclusion: Pilate has apparently settled the matter. He proposes to release Jesus.

This is followed by the fourth episode, centered on Pilate’s order that Jesus be scourged (19:1–3). The scourging of Jesus may imply that this is a punishment in its own right, settling the case. However, an alternative interpretation of the scourging has been offered. This scourging in John has been compared to the flogging of Paul, which is described by the same Greek term *μαστιγίζω* in Acts 22:25 as an example of judicial torture.¹²⁴ Thus, for example, C.H. Dodd writes: “In the dramatic situation depicted by John it may be either the milder penalty proposed but not carried out in Luke as a prelude to release, or it may represent the use of torture to elicit evidence, which was a recognized feature of judicial procedure in the Roman Empire.”¹²⁵ Dodd’s suggestion that the scourging implied judicial torture to elicit evidence for the truth may find some support also from *P.Oslo* II 17.13–14, where the *stratēgos* requested that the culprits should be punished in order to elicit a confession of the truth: καὶ ἐπιτρέψας αὐτοὺς ἐπιπλ[η]χθῆναι ἔφη· τὸ ἀληθὲς ἐξομολογήσασθε (“And requesting that they be punished, he said: ‘Confess the truth!’”). The papyrus does not tell us whether or not they were punished. The protocol only notes that the accused maintained their innocence. Correspondingly, it may be that the scourging of

123 Jesus’ reply to Pilate in 18:34 confirms that Pilate’s words in 18:33 are a statement rather than a question: “Jesus answered, ‘Do you say (λέγεις) this from yourself or have others said (εἶπον) this to you concerning me?’” Cf. de Boer 2000, 148–149.

124 So e.g. Dodd 1963, 102–103; Glancy 2005, 121–127; Moore 2006, 56–62.

125 Dodd 1963, 102–103.

Jesus, if it was intended to elicit evidence, was meant to support his guiltlessness and hence the truth. Thus, from the immediate context of the scourging scene we observe that Pilate has asked the question: “What is truth?” (18:38), and in the report to the Jewish assembly he concludes that he has found no evidence of crime in Jesus (18:38; 19:4).

In the fifth episode of the trial before Pilate, the Jews demand the death of Jesus on the legal charge that “he has made himself the Son of God” (19:4–8).

Then, in the sixth scene, Pilate conducts a second interrogation of Jesus, about this new accusation. Once again, he declares that Jesus does not deserve any punishment (19:9–11).

However, in the final episode the Jews return to their first charge against Jesus, which was political, and they force Pilate to let the law take its course (19:12–16a).

In the further scrutiny of Pilate’s examination of Jesus, I will take my lead from the comment made by Eitrem on the κρίσις part of *P.Oslo* II 17:

The culprits asserting themselves to be innocent, the strategus is unable to settle matters. All he can do is to send the case for trial by the epistrategus whose διάλημψις follows the διάγνωσις of the strategus [...]¹²⁶

In the Greek Law, the procedure Eitrem hints at, in which the judge examined the parties and gave them a chance to come to an arrangement before he finally gave the judgment, was called ἀνάκρισις. Our knowledge of the exact procedure of the ἀνάκρισις is scanty. A parallel, though caution is necessary here, has been seen in the Roman procedure *in iure*, and in both procedures the purpose seems to have been to define the case juristically in order to ensure the correct choice of legal action, either a conviction or an acquittal of the defendant, in Rome by the *iudex*, in Athens by the dicastery. According to scholars in this field, this procedure included some of the following features:¹²⁷

- The negotiations took place ‘off the record’, ἀγράφως. In other words, they were oral and were not recorded in the minutes or the *commentarii* of the magistrate
- One aspect of the ἀνάκρισις was to clarify the accusation, to see whether the action initiated by the plaintiff was sustainable or not
- The defendant had the right to accept or decline the accusation

¹²⁶ Eitrem and Amundsen 1931, 42.

¹²⁷ Harrison 1971, 94–105; Lewis 1989, 58–59.

- The examination involved an exchange between the magistrate and the litigants, as is implied by its name ἀνάκρισις
- The judge tried to settle the matter in conversations with the parties before he opened a public court session
- The ἀνάκρισις could include a notification of the penalty demanded

Even if much caution is needed when comparisons are made between Greek and Roman legal procedures,¹²⁸ there are, at least in general legal terms, some features in the text of John 18:28–19:12 that would seem to cohere with such elements of the ἀνάκρισις. It is noteworthy that this noun, which can denote any kind of examination, is used in Acts 17:11 with this general meaning. It is more interesting, however, that Luke uses ἀνάκρισις in its technical meaning of a legal examination (Acts 4:9; 12:19; 24:8), and, moreover, precisely for the first stage of the Roman *cognitio* (Acts 25:26; 28:18). In his gospel (Luke 23:14), Luke employs the technical legal term to denote the kind of legal action that is involved when Pilate is examining Jesus. It is my suggestion that an analogous legal proceeding is described in John 18:28–19:12.

According to the rules of the Roman procedure, capital crimes involving execution by death could only be sentenced *pro tribunali*. Accordingly, the procedure meant that the Roman prefect had time before the final judgment to negotiate with the participants involved in order to reach a dispute resolution.¹²⁹ Evidence of such a distinction between the appearance of the parties before the tribunal and the preliminary conversations between the magistrate and the litigants is found in an Egyptian papyrus in which the *stratêgos* settles a civil matter ‘off the record’, ἀγράφως, with both parties.¹³⁰ Thus, these private conversations with the parties were not recorded in the minutes of the session, the *commentarii*. An example of this procedure seems to be present in *P.Oslo* II 17, which refers to a conversation ‘off the record’ between the *stratêgos* and the witness Haronnesis (cf. line 5) before the official session took place.

According to Bickerman, Pilate operates in a similar way, as a private arbitrator and not as an *examining judge*, before he takes his judgment seat (cf. John 19:13) and subsequently condemns the accused and sends him for execution. The notices on the time of the event in 18:28 (“It was early in the morning”) and 19:14 (“it was about noon”) confirm this picture of adjournments during

¹²⁸ Cf. Lewis 1995, 288–305; Thomas 2001, 1245–1254.

¹²⁹ For a discussion of the various types of dispute resolution attested in papyrological records, see Kelly 2011, 246–286, esp. pp. 280–285.

¹³⁰ Bickermann (2007, 776 n. 223) refers to an Egyptian papyrus (*Chrest.Mitt.* 94) in which the *stratêgos* settles a matter ‘off the record’ with the contending parties.

the hearings before the matter was settled.¹³¹ This shows that the intermediate proceedings of Pilate, inside and before the *praetorium*, took approximately five hours. Pilate's conversations with the parties during this time indicate that he acts in the role of an intermediary arbiter and not in public. However, I object to Bickerman's view that Pilate only operates as a private arbiter and not as an examining judge. The understanding that a judge interrogates the parties as part of the official trial is supported by Philo, *Legat.* 349, which here gives almost an ideal picture of the office of a judge; I return to this below. Moreover, as we can infer on the basis of *P.Oslo* 11 17, the assertion that the police authority, the *stratêgos*, is no examining judge seems reasonable. The *epistratêgos*, however, is clearly depicted as an examining judge, when the accused are sent to him by the *stratêgos* in order that the case shall be eventually settled. The text indicates that the *epistratêgos* will conduct a διάληψις of the case (διαλαμβάνη περὶ τοῦ πράγματος, line 18), which, according to Eitrem, is to follow the investigation of the *stratêgos* (ἐπὶ τῆς διαγνώσεως [τοῦ] πράγματος, lines 10–11), before he gives the final judgment.¹³² With regard to the comparison of John and *P.Oslo* 11 17, it seems, perhaps, more appropriate to compare Pilate with the jurisdiction of the *epistratêgos*, who seems to bear a greater resemblance to the prefect, rather than with the *stratêgos*, as does Bickerman in support of his position.¹³³

5.3 Stylistic Features of the Interrogation before Pilate

P. Borgen has suggested that the structure of Josephus, *J.W.* 6:300–301 is seen in a more elaborated form in John 1:19–34, resembling features of “the form of a protocol”. He remarks:

Jesus, the son of Ananias, had repeatedly and publicly cried out a sinister message. (Josephus, *J.W.* 6:300–301). The magistrates brought him before the Roman governor. He was asked about his identity, **who** he was, and about his performance, **why** he acted as he did. Then he was expected to give an **answer**. “When Albinus, the governor asked him who he was and whence he was (τίς τ’ εἴη καὶ πόθεν) and why (διὰ τί) he uttered these cries, he answered (ἀπεκρίνατο) him never a word” (§ 305).

The same structure is seen in a more developed form in the interrogation of John by the officials who were sent from Jerusalem. The report

131 For a discussion of adjournments during proceedings being part of the ‘administrative culture’ in Roman Egypt, cf. Kelly 2011, 103–122.

132 Eitrem and Amundsen 1931, 42; Eitrem refers at this point to *Chrest.Mitt.* 22 and 35.

133 Bickerman 2007, 776.

of the interrogation in John has the form of a protocol. As an example of a protocol from a judicial hearing, see Eitrem and Amundsen 1931, 39–43. In that protocol the questions asked by the official person had a brief form. The answers given by the one who was examined were also relatively brief, but nevertheless of variable length.¹³⁴

It may be an exaggeration on Borgen's part to label these fact-finding questions during the interrogation of John the Baptist "the form of a protocol". I shall develop these observations on Josephus, *J.W.* 6:300–306, John 1:19–28, and *P.Oslo* II 17 in a comparison with the structure of Pilate's fact-finding interrogation of Jesus in John 18–19. As for Josephus, *J.W.* 6:300–306, the story of Jesus ben Ananias is well known to New Testament scholars, and detailed comparisons between him and Jesus of Nazareth have been made.¹³⁵ As for the interrogation of Jesus ben Ananias on the part of the Roman governor, the relevant text of Josephus, *J.W.* 6:305–306 reads:

When Albinus, the governor, asked him **who** and **whence** he was (τίς εἴη καὶ πόθεν) and **why** (διὰ τί) he uttered these cries, he **answered** (ἀπεκρίνατο) him never a word, but unceasingly reiterated his dirge over the city, until (306) Albinus pronounced him a maniac and let him go.

As Borgen observed, the same questions of the identity and performance of Ananias ("who [...] he was [...] and why he uttered these cries") are also in the center of the interrogation of John the Baptist by the officials who had been sent from Jerusalem in order to gather testimony and identify who he was (John 1:19–28):

(19) This is the testimony given by John when the Jews sent priests and Levites from Jerusalem to ask him, 'Who are you?' (Σὺ τίς εἶ;) [...] (21) And they asked (ἠρώτωνσαν) him, 'What then? Are you Elijah?' [...] 'Are you the prophet?' (Τί οὖν; σὺ Ἠλίας εἶ [...] 'Ο προφήτης εἶ σύ;) [...] (22) Then they said to him, 'Who are you? (Τίς εἶ;) [...] What do you say about yourself? (τί λέγεις περὶ σεαυτοῦ;)' [...] (25) They asked him, 'Why then are you baptizing if you are neither the Messiah nor Elijah, nor the prophet? (Τί οὖν βαπτίζεις εἰ σὺ οὐκ εἶ ὁ χριστὸς οὐδὲ Ἠλίας οὐδὲ ὁ προφήτης;)'

134 Borgen 2014, 227.

135 See, e.g., Evans 1995, 359–361; Theissen/Merz 1998, 460.

The legal setting of this interrogation is indicated by the framework of the episode. Thus, this scene is referred to by the narrator as John the Baptist's testimony (1:19). The formal setting of the interrogation is also emphasized by the statement that the interrogation "took place in Bethany across the Jordan where John was baptizing" (1:28). Moreover, the fact that the questioners are commissioned by those who sent them to interrogate John the Witness with the aim of gathering evidence also contributes to the scene's legal flavour.

A corresponding style of fact-finding questions and answers is seen also in Pilate's proceedings against Jesus. Thus, as in the interrogations of Ananias and John (**who** and **whence** they were, and **why** they had acted as they did), Pilate's examination of Jesus also centered on the issues of his identity, performance, and provenance. Moreover, in both the cases of Ananias and Jesus, the function of the interrogation would seem to be the same, viz. to inform the governor whether the accused represents any threat to the Roman imperium of Judea. For example, Pilate asks Jesus three questions which are meant to identify him as the accused. In the first sequence of the interrogation, Pilate's first words implied the question of **who** he was (Σὺ εἶ ὁ βασιλεὺς τῶν Ἰουδαίων;) (18:33). This question Jesus answered by a counter-question: "Jesus **answered** (ἀπεκρίθη), 'Do you ask this on your own, or did others tell you about me?' (Ἀπὸ σεαυτοῦ σὺ τοῦτο λέγεις ἢ ἄλλοι εἰπόν σοι περὶ ἐμοῦ;) (18:34). Then, Jesus was asked **what** he had done (τί ἐποίησας;) (18:35), which was followed by Jesus' **answer**: "Jesus answered (ἀπεκρίθη), 'My kingdom is not from this world [...]' (18:36). According to 18:37, this statement prompts a second question on the part of Pilate about **who** Jesus was: "Pilate **asked** (εἰπεν) him, 'So you are a king?'" Again, the question was followed by an **answer**: "Jesus answered (ἀπεκρίθη), 'You say that I am a king.'" In the second sequence of questioning, Jesus was asked **whence** he was: "He entered his headquarters again and **asked** (λέγει) Jesus, 'Where are you from?' (πόθεν εἶ σύ;)." Then he was expected to give an **answer**: "But Jesus gave him no answer" (ὁ δὲ Ἰησοῦς ἀπόκρισιν οὐκ ἔδωκεν αὐτῷ) (19:9).

As the analysis of the structure in *P.Oslo* II 17 showed, the official's interrogation of the litigants encompassed one question to the witness and two questions to the accused. One of the questions asked the accused **why** they acted as they did ("The *stratêgos* [asked]: **why** (δι]ὰ τί!), after having been searched for with a view to an examination of the case, did you not appear until you were proscribed?", lines 9–10), and corresponds to the question **why** Ananias and John acted as they did, and **what** Jesus had done. Furthermore, the question put to John the Baptist, "**What do you say** about yourself? (τί λέγεις περὶ σεαυτοῦ;)" and to the witness Haronnesis, "**What did you say** about these (men) (τί περὶ τούτων ἔλεγες;)" (*P.Oslo* II 17.5), formally resemble Jesus' counter-question

to Pilate in John 18:34: “Do you say this on your own, or did others tell you about me? (Ἀπὸ σεαυτοῦ σὺ τοῦτο λέγεις ἢ ἄλλοι εἰπόν σοι περὶ ἐμοῦ;).”¹³⁶ In *P.Oslo* II 17, the answers followed the common style of the genitive absolute construction in order to distinguish between those who were being examined and the official. Furthermore, the general terminology of ἀποκρίνομαι and φημί, which is employed in some of the answers given by Ananias, John the Witness, and Jesus respectively, can also be found in the legal protocols of the papyri.¹³⁷

5.4 The Legal Decision Pro Tribunali

Before I conclude my study of the Roman proceedings against Jesus, I offer a final remark on the legal decision in the case of Jesus *pro tribunal*. In *P.Oslo* II 17, we have seen that the Egyptians accused were referred to the *epistratêgos* for a final decision: “Let these two ... appear before the most excellent *epistratêgos* when he rules in the case (οἱ δύο οὗτοι [...] ἐπὶ τὸν κράτιστο[ν] ἐπισ[τράτηγο]ν παραγένονται ὅταν διαλαμβάνῃ περὶ τοῦ πράγματος)” (line 18). The following *scenario* may emerge from this line: The word παραγίνεσθαι indicates that the accused most probably were appearing before the judgment seat (βῆμα) of the *epistratêgos*, whose examination (διάληψις) of the case meant that the parties had a chance to come to an arrangement before the judge finally gave his final decision (διαλαμβάνῃ περὶ τοῦ πράγματος). The same procedure may be reflected in the appearance of Jesus before the Roman prefect as well. In the arbitration with the parties, Pilate unsuccessfully tried to get the Jews to withdraw their accusations, which implied that he tried to release Jesus. Eventually, however, under pressure from the Jews (19:12), Pilate opened a public court session by taking his judgment seat (ἐκάθισεν ἐπὶ βήματος) (19:13), from which he decided that Jesus was to be executed by crucifixion (19:16). In *Legat.* 350, Philo provides a cultural context in which John’s view on the course of the proceedings before Pilate may have some verisimilitude:

For this is what a judge would do: he would sit with assessors selected for their high merit, as the case under examination was of the greatest importance, since nothing had been heard of it for four centuries and it was now for the first time brought up against the many myriads of the

136 Brown’s comments (1970, 2.868) on this verse may be all the more relevant in the light of these parallels that formally resemble a legal setting attested in the form of a protocol: “Note that the accused criminal asks questions as if he were the judge, and from the first words of Jesus it is the prefect who is on trial!”

137 See Coles 1966, 43.

Alexandrian Jews: the opposing parties would stand on either side of him with the advocates who would speak for them, and he would listen in turn to the accusation and the defence for the space of water-time allowed! Then he would rise and consult with his assessors as to the verdict which in full accordance with justice they would publicly declare.

Legat. 350

Here Philo describes the Emperor Gaius as a counterfoil to the ideal of a true judge. Against this background, he gives a description of the legal proceedings as they ideally should have been. Despite the differences between John's picture of Pilate's performance and the characteristics of an ideal judge in Philo, there are nonetheless some similarities in the sequence of the legal actions: (1) The judge is an *examining judge*, who examines the opposing parties before he settles the matter; (2) He would listen in turn to the accusers and the defendant as long as time permits; (3) Then, finally, he would publicly declare the verdict. Furthermore, with regard to the performance of the judge, U. Wilcken has observed that the Philonic passage seems to resemble the procedure reflected in Acts 26:30 and in an Egyptian papyrus from the time of Hadrian:

Der Richter sitzt während des Verhörs auf dem Tribunal. Nach Beendigung desselben erhebt er sich von seinem Richterstuhl zum Konsilium und untersucht den Fall mit seinen Assessores. Darauf spricht er die Sentenz, wahrscheinlich wieder vom Richterstuhl aus (ἀπὸ βήματος) [...] Ich meine die Schilderung, die Philo, leg. ad Gaium 44 (II 597 M), von einer normalen Gerichtsverhandlung entwirft, im Gegensatz zu der Behandlung der jüdischen Gesandtschaft durch Kaiser Gaius. Er hat also das Kaisergericht, oder allgemeiner den Kognitionsprozess im Auge.¹³⁸

If Wilcken's observation holds true, we may reasonably suggest that at least some features of the legal proceeding *pro tribunali* envisaged by Philo and John fit into the framework of the *cognitio* of the Greco-Roman administration. The evidence provided by the papyrus Wilcken referred to may also support such an impression.

¹³⁸ Wilcken 1913, 233.

6 Conclusions

Let me sum up the observations in the present chapter by means of some conclusions:

1. I have argued that the Johannine report of the juridical facts of the official Jewish and Roman forensic proceedings against Jesus may be situated within the framework of the Greco-Roman administration. Hence, the course of the legal proceedings in John reflects the provincial procedures as they are exemplified in the legal protocol *P.Oslo* II 17 and other papyri from Roman Egypt.
2. In some instances in John, the usage of ζῆτέω depicts the procedure and terminology for getting hold of a criminal, who had evaded the municipal police authority. Thus, Jesus' situation was similar to the accused in *P.Oslo* II 17: he is summonsed and searched for as a fugitive criminal. Furthermore, John describes Jesus as a fugitive in terms common in the papyri and ancient Christian authorities for evasions of this kind.
3. *P.Oslo* II 17 attests an additional procedure in conjunction with a police search whereby, if the accused still failed to appear, the police 'proscribed' them as persons whose whereabouts were unknown. The 'proscription' meant that a writ of arrest, which included the names of suspect criminals, was made public, so that it became possible to get hold of the fugitives, e.g., by denouncing the hiding place of these 'registered persons'. John's account resembles this procedure, when the chief priest and the Pharisees gave orders that anyone who knew about Jesus' whereabouts should denounce (μηνύω) him, so that they might arrest him (John 11:56–57). Following the order of the Jewish authorities, Judas plays the role of the informant who provided the necessary denunciation which eventually brought Jesus to be arrested (John 13:31; 18:2–5).
4. After the apprehension by the Jewish police officers in collaboration with Roman soldiers, Jesus was subsequently 'sent under guard' to the house of Caiaphas for a hearing. Thus, the police procedure relative to Jesus follows the way in which the accused, according to *P.Oslo* II 17, were first brought before the local police magistrate who had instigated the search for them, so that the examination of the case might proceed and be brought to an end.
5. The outcome of the interrogation of the Egyptian accused (*P.Oslo* II 17.14–15) was that they asserted their innocence. Hence, unable to settle the matters, the police magistrate made a referral of the case to the jurisdiction of the Roman

epistratêgos. Correspondingly, the high priest, in the capacity of being the chief police magistrate, initiates a new procedure by bringing the accusation against Jesus before the Roman jurisdiction rather than before the provincial jurisdiction of the Jewish Sanhedrin. While both the Egyptian accused and Jesus were in a kind of preventive custody before the main ‘trial’, it was the task of the police to ensure that they would appear before the court of the *epistratêgos* and the Roman *praefectus*, respectively.

6. Dodd’s suggestion that scourging was an expression of the procedure of judicial torture to elicit evidence and the truth from the defendant may find some corroboration in *P.Oslo* II 17.13–14, according to which the *stratêgos* requested that the accused should be punished in order to confess the truth. The Oslo protocol only tells us that the accused maintained their innocence. By analogy, from the context of the Johannine account, it seems that the scourging of Jesus, if it was intended to elicit evidence, is meant to emphasize his innocence. Thus, from the immediate context of the scourging scene we know that Pilate has examined Jesus about the truth (18:38), and that he therefore reported that he found no evidence of crime in him (18:38; 19:4).

7. The procedure of a preliminary hearing allowed the Roman prefect to negotiate with the participants involved. Evidence of such a private arbitration between the magistrate and the litigants is found in an Egyptian papyrus in which the *stratêgos* settles a civil matter off the record, ἀγράφως, with both parties. An illustration of this procedure seems to be attested by *P.Oslo* II 17, which refers to a conversation ‘off the record’ between the *stratêgos* and the witness Haronnesis before the official session took place. Pilate’s talks with the parties indicate that he acts in a corresponding role of an intermediary arbiter, yet still in the position of an *examining judge*, in a way that may resemble the kind of adjournments that took place outside the public court session.

8. The hearing of Jesus before Pilate features a style of fact-finding questions and answers with analogies in the examinations of Jesus, the son of Ananias (Josephus, *J.W.* 6:300–306), John the Witness (John 1:19–28), and the interrogation of the litigants by the *stratêgos* (*P.Oslo* II 17.5). In a way that corresponds with the interrogations of Ananias and John (about *who* and *whence* they were, and *why* they had performed as they did), Pilate’s examination of Jesus also concerned issues of his identity, performance, and provenance.

9. Finally, it is tenable to maintain that at least some features of the legal proceeding *pro tribunali* envisaged by Philo and John fit into the legal framework of

the *cognitio* of the Greco-Roman administration. The scant evidence provided by Acts and another Egyptian papyrus may also support such an impression.

PART 2

*The Johannine Lawsuit Motif in the Light
of the Divine Realm and Jurisdiction*



The Debate about Valid Testimony in John 5:31–40; 8:12–20 and Philo, *Legum Allegoria* 3:205–208

1 Thesis

It is the thesis of this chapter that Philo, *Leg.* 3:205–208, supplemented with other relevant Philonic texts, provides a Jewish cultural context for the debate about valid testimony reflected in John 5:31–40 and 8:12–20. The Philonic data, neglected by the interpreters of John, supplies documentation for the view that the controversy on self-testimony in John 5:31–40 and 8:12–20 is a specifically ‘Christian’ version of a discussion which most probably also existed among Jews in Alexandria. Specifically, both Philo and the Johannine Jesus accept the legal rule of the prohibition of single testimony and the criterion of multiple witnesses embedded in Deut 19:15 as a valid testimony. In a controversy with other Jews, however, Philo maintains that only God was capable of giving a self-authenticating testimony, without coming in conflict with the ruling about two or three witnesses. This argument supplies a Jewish context for the point made by John that Jesus could testify to himself because of his divine origin. Accordingly, both God and Jesus might present valid testimonies in compliance with the legal requirement of at least two witnesses to substantiate the claims made by Jesus in his own defence. Through a comparison of Philo and John, I shall develop and provide support for this thesis. I hope to suggest fresh answers to some of the questions that scholars have raised concerning the Johannine texts.

First, the state of research shall be sketched. I shall then give an outline of the relevant texts in Philo and John. Next, my thesis will be argued by means of a comparison of Philo and John. Finally, the study will be rounded off by a conclusion.

2 The State of Research

Before I take a closer look at the Philonic data which provide a Jewish context for the understanding of the controversy reflected in John 5:31 and 8:13–14, it will be helpful to begin with some of the issues which scholars have discussed regarding these Johannine texts.

1. In John 5:31 (“If I alone bear witness about myself, my testimony is not deemed true”), the Johannine Jesus accepts the legal principle which is held up against him by the Pharisees in 8:13 (“Then the Pharisees said to him, ‘You are testifying on your own behalf; your testimony is not valid’”), viz. that a person cannot serve as his own witness. The legal documentation of this principle has been discussed, and scholars commonly accept that this principle stems from its biblical background, such as Deut 19:15, which both prohibits a single testimony and demands at least two witnesses to convict a man in a capital case.¹ However, as R. Brown observed, “John is not dealing with witnesses necessary to condemn a man, but with witnesses to confirm someone’s testimony.”² As an analogy to John’s broadening of Deut 19:15, scholars have pointed to *m. Ketub.* 2:9, in which the prohibition of a single testimony is applied to a non-capital case as a general principle that no man may bear witness on his own behalf. As I shall argue in this study, Philo’s general and non-specific application of the prohibition of the single testimony, recalling the statement in Deut 19:15 LXX that “any matter” or “any word” should be established on the evidence of two or three witnesses, provides a cultural context for a corresponding application of Deut 19:15 that is reflected in John 5:31–39 and 8:12–17.

2. Is there a contradiction between the statements in John 5:31 (“If I alone bear witness about myself, my testimony is not deemed true”) and John 8:14 (“Jesus answered: ‘Even if I do bear witness about myself, my testimony is true [...]’”)? According to John 5:31–32 Jesus is seen as a human being who is dependent on, and in need of, his Father’s testimony. On the other hand, in John 8:14 Jesus’ own witness is viewed as self-authenticating. C.K. Barrett comments on John 5:31:

In this verse there is a formal contradiction with 8.14 [...]. In each place the speech is *ad hominem* and the meaning is sufficiently plain; yet it may be questioned whether a writer who had fully revised his work would have left the two statements in their present form.³

H. Thyen thinks that the contradiction is “nur scheinbar” and objects to Barrett’s understanding:

1 Brown 1966, 1.223; Beutler 1972, 256 n. 182; Barrett 1978, 264.

2 Brown 1966, 1.223.

3 Barrett 1978, 264. Cf. Brown (1966, 1.224), who doubts that the same editor wrote both lines.

Da muss man Johannes nicht der Flüchtigkeit verdächtigen und wie Barrett fragen, “ob ein Schriftsteller, der sein Werk vollständig durchgesehen hat, die zwei Aussagen in ihrer vorliegenden Form hätte stehen lassen” (Komm. 279). Denn gerade in diesem gewiss nicht zufällig ‘stehen geblieben’, sondern absichtsvoll gesetzten Widerspruch besteht ja das Paradox der Sendung Jesu als des fleischgewordenen Logos.⁴

Darum kann und muss der Sohn dem Satz, dass sein Zeugnis, wenn es denn ein Zeugnis in eigener Sache wäre, unglaublich ist, in 8,14 den anderen Satz hinzufügen, dass aber sein Zeugnis gleichwohl glaubwürdig ist, weil es nämlich gar nicht das Seine ist.⁵

A. Lincoln states his understanding of John 5:31 and 8:14 as follows:

On the one hand, in 5:31, 32, Jesus as a human being is totally dependent on his Father and in need of the Father’s validating testimony. On the other hand, here in 8:14, he is so at one with God that his witness is self-authenticating, for by definition God needs no one to validate God’s testimony.⁶

J. Blank has raised another question concerning John 8:14: “Wie kann Jesu Wissen um seinen Ursprung und sein Ziel, also um seinen Weg, Grund sein für die Wahrheit des Selbstzeugnisses?”⁷

Blank suggests this answer:

Jesu Wissen um sein Woher und Wohin bezeichnet sein vollkommenes Um—sich selber—Wissen; Jesus weiss so um sich selbst, dass ihm sein Woher und Wohin bekannt ist. [...] Somit ist deutlich: Jesu Wissen um sein Woher und Wohin ist nichts anderes, als das Wissen um seinen Ausgang vom und seine Rückkehr zum Vater; sein Wissen um den Vater überhaupt als Ursprung und Ziel seiner selbst.⁸

4 Thyen 2005, 319.

5 Thyen 2005, 320.

6 Lincoln 2000, 84–85.

7 Blank 1964, 217–218.

8 Blank 1964, 218.

Philo can provide a Jewish context, however, which testifies to Lincoln's and Blank's readings of John 5:31–32 and 8:14, respectively, and which might explain Jesus' exceptional identity as a self-authenticating witness. Although J. Beutler has discussed the Philonic material on witness, which he characterises as non-forensic, he does not, however, draw on this data in the course of his analysis of John 5:31–37 and 8:12–17.⁹ With regard to John 8:13–14, Beutler represents a commonly held view among scholars: "Die Ausnahme von der genannten Rechtsregel ist in dem besonderen Fall Jesu begründet".¹⁰ In a review of Beutler's book, P. Borgen commented:

Thus, he [sic. Beutler] here overlooks that Philo, (who refers the view of others) in *Leg.*, III, 205, states an exception to the rule against self-witness in a way which corresponds to that of John. According to Philo, only God is capable of giving witness to himself. John correspondingly states that Jesus can witness to himself because of His divine origin. Thus, John presupposes Jewish debate on the forensic rule against self-witness and the problem that arises when it is applied to God. The Evangelist did not himself create the exception to the rule when it was applied to Jesus, as Beutler claims.¹¹

Unfortunately, Borgen has not pursued this suggestion by an extensive analysis of this Philonic text in comparison with the two Johannine texts.¹² Thus, my survey of the scholarly literature concludes that the field is open for a study comparing Philo and John on this forensic issue.

3. How are we to understand the various testimonies of John the Baptist, the Father, the works, and the Scriptures? To what do they refer, and do they have the same status as witnesses? According to C.K. Barrett, there is a discussion in John on testimonies which are of primary or secondary authority. Only the witness of God himself is a satisfactory testimony to Jesus. The others—the witness of the Baptist, the witness of the works done by Jesus in the Father's name, and the witness of the Hebrew Bible—are all derived testimonies, of real but secondary authority.¹³

9 Beutler 1972, 147–148.

10 Cf. Beutler (1972, 268), for further references to scholars who hold such a view.

11 Borgen 1974, 583.

12 Borgen repeats this observation in his most recent book on John; cf. Borgen 2014, 210.

13 Barrett 1978, 258.

According to Lincoln, the various testimonies which are adduced to provide proof for Jesus “do not constitute a straightforward list where each is distinct and has the same status as witness, as commentators frequently suggest”.¹⁴ Lincoln holds the view that

Jesus’ works, which are given him by the Father, and the Scriptures, which are the Father’s word, can, then, both be seen as the visible aspects of the Father’s testimony. This testimony is contrasted to that of the Baptist.¹⁵

Thyen, who shares a similar perspective, thinks, however, that John makes some sort of distinction between the witnesses of God to Jesus, viz. on the one hand the “works” and the “Scriptures”, explicitly mentioned in John 5:36 and 5:39, and the Father’s witness, referred to in John 5:37a, on the other hand.¹⁶ This point of view, then, raises the question: When John refers to the Father’s direct witness in John 5:37a, does he have in mind a particular occasion or a particular kind of witness? Scholars have made various suggestions. Most scholars take it to refer to the Father’s witness through the “works” of Jesus and the “Scriptures”.¹⁷ Other interpreters have seen here an allusion to the voice from heaven at the Baptism.¹⁸ Barrett has suggested that it refers to the testimony of God, granted to those who believe in Jesus.¹⁹ R. Schnackenburg has connected the idea about the testimony of the Father in John 5:37a with the verb σφραγίζω in John 6:27b., which according to Liddell and Scott’s Greek-English Lexicon means to ‘to accredit as an envoy’, with an equivalent in the Hebrew and Aramaic word חתם, ‘to seal’, which is the technical term for sealing as a witness.²⁰ Thus, Schnackenburg’s understanding suggests that the testimony of the Father in John 5:37a points to the way God sealed the Son of Man and bore witness to Him as his envoy.²¹ The questions about the meaning of the various testimonies, and in particular the witness of the Father, will be dealt with more fully when we compare John and Philo.

¹⁴ Lincoln 2000, 77.

¹⁵ Lincoln 2000, 77.

¹⁶ Cf. Thyen 2005, 323.

¹⁷ So, e.g., Dahl 1976, 109; Pancaro 1975, 224; Thyen 2005, 323.

¹⁸ Cf. for example, Asting 1939, 679; Schneider 1976, 133.

¹⁹ Barrett, 1978, 267.

²⁰ Cf. Liddell and Scott 1996, 513–514.

²¹ Schnackenburg 1980, 38. Borgen (1996, 210–211) follows Schnackenburg in this interpretation of John 5:37 and John 6:27b.

4. Should John 5:37b (“You have never heard his voice or seen his form”) be treated as a parenthesis, or should it to be put on the same footing as John 5:38a (“and you do not have his word abiding in you”) as a reproach? Scholarly opinions are divided on this point. If the words of v. 37b are a parenthesis, they are not meant as a reproach but as a statement of a fact and/or of a recognized principle. Then John rejects the notion that the ‘Jews’ have ever heard the voice of God or seen his form. The principle is that there is no direct access to the Father: God is transcendent, and his form and voice are not immediately accessible and assessable. Fact and principle need not both be affirmed. Scholars such as Dahl, Borgen, and Pancaro hold that John 5:37b is to be taken as a reproach and that it alludes to the revelation at Sinai.²² There the Israelites heard the voice of God, and according to some Jewish texts and traditions they also saw his ‘form’—in spite of Deuteronomy 4:12.²³ Since John 6:46 declares that there is no vision of God apart from the Son, it may also be probable that God’s ‘form’, which appeared on Mount Sinai, is identified with the Son of God. Hence, in John’s interpretation the ‘Jews’, who refuse to believe in Jesus, prove that they did not see God’s ‘form’ and that they have no share in the pre-view of the Son given to Israel on Mount Sinai.²⁴ In the light of the evidence in Philo, I shall make a fresh proposal about the Jewish referential background of John 5:37b, which also seems to fit well with the preceding v. 37a.

3 An Outline of *Leg.* 3:205–208

Leg. 3:205–208 is located in the literary context of one of the two main groups of expository writings in the Philonic corpus, viz. the exegetical commentaries on Genesis.²⁵ This series covers the main part of Genesis 2–41. In general,

²² Cf. Dahl, 1976, 109; Borgen, 1965, 151; Pancaro, 1975, 218–226.

²³ Dahl (1976, 109) refers to Sir 17:6 and *Mek. Exod* 19:11.

²⁴ Cf. Borgen 1987a., 165.

²⁵ The exegetical commentaries on Genesis fall into two series: a) *Questions and Answers on Genesis and on Exodus*. b) *The Allegorical Commentary on Genesis* consists of *Allegorical Laws* 1–3; *On the Cherubim*; *On the Sacrifices of Abel and Cain*; *The Worse Attacks the Better*; *On the Posterity and Exile of Cain*; *On the Giants*; *On the Unchangeableness of God*; *On Husbandry*; *On Noah’s Work as Planter*; *On Drunkenness*; *On Sobriety*; *On the Confusion of Tongues*; *On the Migration of Abraham*; *Who is the Heir of Divine Things?*; *On Mating with the Preliminary Studies*; *On Flight and Finding*; *On the Change of Names*; *On God*; *On Dreams*. The other main group of expository writings is *The Exposition of the Laws of Moses*, in which Philo to a great extent paraphrases and expands the biblical texts.

they take the form of a verse-by-verse commentary on the biblical texts. In *Legum Allegoriae* III, Philo comments on Genesis 3:8b–19. He uses the verses from Genesis as headings and starting points for expositions of other parts of the Pentateuch. Thus, the structure of the immediate literary context to *Leg.* 3:205–208, viz. *Leg.* 3:200–219, can be set out as follows:

- Leg.* 3:200 Quotation of the main biblical text, Gen 3:16: “And to the woman He said, ‘I will greatly multiply thy sorrows and thy groaning’”.
- Leg.* 3:200–202 Direct paraphrasing exegesis of the word “sorrow” (λύπη) from Gen 3:16 as the lot of sense-perception in contrast to gladness, exemplified by the way in which the slave and the athlete take a beating.
- Leg.* 3:203–210 Whereas God has appointed pains for the woman-sense, he has bestowed on the noble soul an abundance of “blessings”. This topic is exemplified by a quotation of Gen 22:16 followed by an exegetical paraphrase of the words “By Myself I have sworn” (203–208) and “for whose sake thou hast done this thing” (209–210) from the quotation. References to other biblical texts such as Num 12:7 (204) and Deut 6:13 (208) are given.
- Leg.* 3:211–219 Philo returns to the main text of Gen 3:16: Direct paraphrastic exegesis of the word “groaning” (στεναγμός). There are references to other biblical texts such as Exod 2:23 (212; 214), Exod 20:24 (215), Gen 17:15–16 (217–218), Gen 18:11 (218), and Gen 21:6 (219).

The content of *Leg.* 3:205–208 consists of Philo’s paraphrastic exegesis of the words: “By Myself I have sworn” from Gen 22:16. In § 204 Philo refers to some interlocutors who object to the case of an oath taken by God: “Some have said, that it was inappropriate for Him to swear”. Then follows an immediate definition of an oath:

For an oath is added to assist faith, and only God and one who is God’s friend is faithful, even as Moses is said to have been found “faithful in all his house” (Num 12:7). Moreover, the very words of God are oaths and laws of God and most sacred ordinances; and a proof of His sure strength is that whatever He saith cometh to pass, and this is specially characteristic of an oath. It would seem to be a corollary from this that all God’s words are oaths receiving confirmation by accomplishment in act.

In §§ 205–208 Philo returns to the objection of the other interpreters and his own subsequent answer. Thus, this text consists of a dialogue, in which a solution to the problem raised by the interpreters is offered in the form of “questions and answers”. The text is structured as follows:

The problem propounded by other interpreters:

(205) They say indeed that an oath is a calling God to witness to a point which is disputed; so if it is God that swears, He bears witness to Himself, which is absurd, for he that bears the witness must needs be a different person from him on whose behalf it is borne.

Question:

What then must we say?

Answer:

First that there is nothing amiss in God bearing witness to Himself.

For who else would be capable of bearing witness to Him?

Secondly, He Himself is to Himself all that is most precious, kinsman, intimate, friend, virtue, happiness, blessedness, knowledge, understanding, beginning, end, whole, everything, judge, decision, counsel, law, process, sovereignty.

(206) Besides if we once take “by Myself have I sworn” in the right way, we shall quit this excessive quibbling.

Philo’s final argument and solution of the problem:

Probably then the truth of the matter is something like this. Nothing that can give assurance can give positive assurance touching God, for to none has He shown His nature, but He has rendered it invisible to our whole race. Who can assert of the First cause either that It is without body or that It is a body, that It is of such a kind or that It is of no kind? In a word, who can make any positive assertion concerning His essence or quality or state or movement? Nay, He alone shall affirm anything regarding Himself since He alone has unerringly exact knowledge of His own nature.

Conclusion:

(207) God alone therefore is the strongest security first for Himself, and in the next place for His deeds also, so that He naturally swore by Himself when giving assurance as to Himself, a thing impossible for another than He.

Consequence:

It follows that men who say that they swear by God should be considered actually impious; for naturally no one swears by Him, seeing that he is unable to possess knowledge regarding his nature. No, we may be content if we are able to swear by His name (as we have seen) the interpreting word. For this must be God for us the imperfect folk, but as for the wise and perfect, the primal Being is their God.

(208) Moses too, let us observe, filled with wonder at the transcendence of the Uncreate, says, "and thou shalt swear by His name" [Deut. vi. 13], not "by Him," for it is enough for the created being that he should be accredited and have witness borne to him by the Divine word; but let God be His own most sure guarantee and evidence.

With regard to its content, it is clear that Philo here gives an account of a discussion of the prohibition of single testimony in a legal case, and the problem that arises when it is applied to God. Philo refers to some other interpreters who deny that anyone can give witness in his own case. Accordingly, they also hold it to be absurd that God can bear witness to himself. Philo refutes such an objection by arguing in various ways that it is only God who is capable of giving witness to himself without coming into conflict with the requirement for more witnesses, for who else would be capable of bearing witness to Him? I shall offer a further analysis of both the form and the content of this Philonic discourse and its probable setting when I compare it with the Johannine texts. Here, I will give a brief sketch of these two texts.

4 An Outline of John 5:31–40 and 8:12–20

4.1 *John 5:31–40*

As we pointed out in chapter two, the literary structure of a case story (John 5:1–18) followed by a series of judicial exchanges that amount to an arrest and a subsequent execution (John 5–10), has analogies with a similar dual structure in Philo in the case of a blasphemer in *Mos.* 2:192–208, and a Sabbath-breaker in *Mos.* 2:213–232. Accordingly, the whole discourse of John 5–10 takes on a setting like a 'trial', in which Jesus defends his legal authority by summoning witnesses and referring to the Law and the Scriptures as legal precedent and documentation.

In the first unit of the series of judicial exchanges, John 5:19–47, Jesus begins his defence of the legal authority to heal on the Sabbath and to call God his father (John 5:19–30). Verse 19 serves as a starting-point for Jesus' "self-

testimony”, like a “text” which is paraphrased throughout the following discourse, and which reaches its conclusion in v. 30. Thus, the opening phrase from v. 19, οὐ δύναται ὁ υἱὸς ποιεῖν ἄφ’ ἑαυτοῦ οὐδέν (“the Son can do nothing on his own”) is repeated in v. 30, and provides a bridge to what follows. In the inclusion in v. 30, the claim from v. 19 is applied to Jesus himself in first person, Οὐ δύναμαι ἐγὼ ποιεῖν ἄπ’ ἑμαυτοῦ οὐδέν (“I can do nothing on my own authority”).²⁶

On the basis of this first part of the defence, it might be alleged that Jesus appeared as a single witness in his own case. In the biblical laws of testimony, such a single witness was prohibited. By his words in John 5:31, “If I testify about myself, my testimony is not valid”, Jesus accepts this legal principle. Moreover, in addition to the prohibition of single testimony, Deut 19:15 rules that at least two or three witnesses are required for a valid testimony. It is against such a forensic background that we must understand Jesus’ argument in John 5:31–40, in which his own claims are corroborated by referring to the “works”, the Father, and the Scriptures, as three valid witnesses on his behalf.²⁷

An outline of John 5:31–40 runs:

The claim of Jesus:

If I alone bear witness to myself, my testimony is not valid;

First testimony:

there is another who bears witness to me, and I know that the testimony which he bears to me is valid. You sent to John, and he has borne witness to the truth. Not that the testimony which I receive is from man; but I say this that you may be saved. He was a burning and shining lamp, and you were willing to rejoice for a while in his light.

Second testimony:

But the testimony which I have is greater than that of John; for the works which the Father has granted me to accomplish, these very works which I am doing, bear me witness that the Father has sent me.

²⁶ For an analysis of this passage, cf. Borgen 2014, 197–203.

²⁷ For a rhetorical analysis of John 5:31–47, see Attridge 2002, 188–199, esp. pp. 196–199.

Further comment on the first testimony:

And the Father who sent me has himself borne witness to me. His voice you have never heard, his form you have never seen; and you do not have his word abiding in you, for you do not believe him whom he has sent.

Third testimony:

You search the scriptures, because you think that in them you have eternal life; and it is they that bear witness to me, yet you refuse to come to me that you may have life.

4.2 *John 8:12–20*

As regards the location of this text within its broader literary context, John 8:12–20 continues the series of judicial exchanges from 5:31–40, in which Jesus again appears as a witness in his own defence. Again, the issue is Jesus' claim about his own identity, and the question of the veracity and type of the witnesses on his side. In its closer literary context, John 8:12–20 is part of the unit of John 7:1–8:59. Thus, the claim in John 8:12 that Jesus is the Light of the world (comparable to John 7:37), is used to introduce the issue of valid testimonies to Jesus (8:13–20). In John 8:21–30, the questions are raised about whence Jesus comes and whither he goes, who the Father is and who Jesus is. The similar theme of his identity and his relation to his Father is further developed in 8:31–59, but in new terms.

The judicial exchange between Jesus' critics and his response in 8:12–20 can be outlined as follows:

The claim of Jesus:

Again Jesus spoke to them, saying, "I am the light of the world; he who follows me will not walk in darkness, but will have the light of life."

The objection of the Pharisees:

The Pharisees then said to him, "You are bearing witness to yourself; your testimony is not true."

*The reply of Jesus to the objection by a threefold argument:**(First argument)*

Jesus answered, "Even if I do bear witness to myself, my testimony is true, for I know whence I have come and whither I am going, but you do not know whence I have come and whither I am going.

(Second argument)

You judge according to the flesh; I judge no one. Yet even if I do judge, my judgment is true, for it is not I alone who judge, but I and he who sent me.

(Third argument)

In your law it is written that the testimony of two men is true; I bear witness to myself, and the Father who sent me bears witness to me."

Question:

They said to him therefore, "Where is your Father?"

Answer:

Jesus answered, "You know neither me nor my Father; if you knew me, you would know my Father also."

Editorial note:

These words he spoke in the treasury, as he taught in the temple; but no one arrested him, because his hour had not yet come.

In my comparison of the discourses of Philo and John, I shall highlight the points of similarities and divergences with regard to both form and content between John 5:31–40, 8:12–20 and *Leg.* 3:205–208.

5 A Jewish Debate about Valid Testimony: A Comparison of John and Philo

5.1 *The Setting of the Judicial Exchange*

The Johannine discourses are quite diverse in their genre, with parallels to a wide range of literary patterns and genre 'forms'.²⁸ Dialogic discourses, with either friendly or hostile interlocutors, are common in John. According to R. Bauckham, the polemic dialogues and discourses in John, punctuated by questions and objections, meet the historiographical criterion of appropriateness to speaker and situation.²⁹ Observations on John 8:12–20 in the light of Philonic evidence may support such a consideration.

²⁸ See, e.g., Beutler 1985, 2506–2568; Attridge 2002, 3–21.

²⁹ Bauckham 2007, 17–36.

Both Philo and John drew on traditional forms, so that the language, genres, conflicts, expository use of Scripture and oral traditions, etc., may presuppose a synagogal framework.³⁰ A closer look at *Leg.* 3:205–208 and John 8:12–20 suggests that they reflect discussions of problems and solutions in the form of questions and answers, which are appropriate in such a learned setting.³¹

In general, Philo's writings testify to the method of questions and answers involved in problem-solving exegesis or discussion as part of the teaching activity in the synagogue, as suggested by his report on the expository activity among the Therapeutae:

[...] the President of the company [...] discusses (ζητεῖ) some questions arising in the Holy Scriptures or solves (ἐπιλύεται) one that has been propounded by someone else.

Contempl. 75

The verb ζητέω and the composite verb ἐπιζητέω are used elsewhere in Philo's writings when an exegetical question is raised, and answers and solutions are given.³² Moreover, in *Contempl.* 79 the leader is said to have conversed with (διαλέγομαι ['hold converse with', 'discuss']) his audience, and since questions and answers were part of the discourse, the verb means most probably in this context 'discuss'.

Philo's discourse is part of a problem-solving discussion of Gen 22:16, although there is no direct reference to a particular learned setting in *Leg.* 3:205–208.³³ Philo employs the device of objections and replies. In Philo's writings, such objections are introduced by simple formulas, for example phrases such as "some said" (ἔφασαν δέ τινες), and "they say" (φασί) in *Leg.* 3:204–205. Such phrases are also used when Philo records the views of others.³⁴ Philo's answer to the problem raised by the interlocutors is introduced in *Leg.* 3:205 as a question: "What then must we say (τί οὖν λεκτέον)?" Likewise, the subsequent statements of the solution to the problem are tightly organized: "First (πρῶτον) that there is nothing amiss in God bearing witness to Himself [...]. Secondly (ἔπειτα), He Himself is to Himself all that is most precious [...]." Examples of

30 For the proposal that so that the Johannine language, genres, conflicts, use of Scripture, targumizing of the Jesus tradition, and so on, may presuppose a synagogal framework, cf. e.g. Olsson 2003, 203–224.

31 Cf. Borgen 2003, 45–76.

32 See, Borgen 1997, 100–101.

33 Cf. V. Nikiprowetzky 1977, 179–180.

34 Cf. *QG* 1:8; 2:64; 3:13; *Opif.* 77.

similar forms of problem-solving exegesis in the form of questions and answers are found in *Leg.* 1:34–35; 1:60–61; 1:102–103; *Virt.* 171–174.³⁵

In John, Jesus' public teaching in the form of a dialogue with his interlocutors often took place in the synagogue or the Temple (cf. 6:59; 7:14,28; 18:20).³⁶ In this context of learned settings, John's application of the problem-solving discourse of exchange and discussion may be appropriate, when the passage in John 8:12–19 is delimited by an editorial note in v. 20 commenting on the setting of the report: "These words he spoke in the treasury, as he *taught* in the temple [...]." Although, there is no explicit reference to an exegetical discussion in the Johannine texts, such a setting may be implied, since the issues of the judicial exchange draw on the biblical laws of testimony. Thus, the dialogue in John 8:12–20 is introduced by the claim of Jesus about himself (8:12), followed by the objection of the Pharisees (8:13), which raises the problem of a single testimony. This manifestation of dissent to Jesus' claim leads in turn to his statements of the solution to the problem, in the form of a threefold argument (8:14–18). This solution raises another question from the Pharisees, followed by Jesus' final reply (8:19).

5.2 *The Discussion about Bearing Valid Testimony*

Both Philo and John refer to a debate concerning bearing valid testimony. According to *Leg.* 3:205, the controversy takes place between Philo himself and probably some other Jewish group of interpreters, probably the so-called 'allegorists', who objected to a literary exposition of anthropomorphisms in the Scriptures.³⁷ In *Sacr.* 91–93 Philo refers to a protest by "*thousands*" against the notion that God was said to swear an oath:

But, when he tells us that God swears an oath, we must consider whether he lays down that such a thing can with truth be ascribed to God, since *to thousands it seems unworthy of Him*. For our conception of an oath is an appeal to God as a witness on some disputed matter.

Sacr. 91

Philo then takes the same position as the 'allegorists'. He explains that it is impossible to ascribe to God the notion of an oath, understood as an appeal to God as a witness, because God cannot appeal to another god as a higher witness

³⁵ Cf. Borgen 1997, 129; 131; 135.

³⁶ See Lieu 1999, 51–69, esp. p. 69.

³⁷ On the issue of various groups of interpreters in Alexandria, cf. e.g., Hay 1979–1980, 41–75; 1991; Moxnes 1980, 142–146.

than himself; he who bears witness is superior to him to whom the witness is given. Philo supports this line of thought by emphasizing its premise: “there is nothing equal to Him, or even but a little below” (*Sacr.* 92). Accordingly, unlike human beings, who need an oath to prove their trustworthiness, God himself is believable, and he lends credibility to the oath (*Sacr.* 93).

In *Leg.* 3:203–205, Philo argues on the basis of the same criterion that God is without equal, but this time he rejects the position of “some”, whose objection he quotes:

Some have said that it was inappropriate for Him to swear. [...] if it is God who swears, He bears witness to Himself, which is absurd, for he that bears the witness must be a different person from him on whose behalf it is borne.

Leg. 3:204–205

In his argument against such a position, Philo emphasizes the idea of God’s uniqueness vis-à-vis human beings, which is expressed in the statement in Gen 22:16 that God swears or testifies “by himself”. Thus, the oath taken by God can be affirmed only by a single testimony of God himself, and would not come in conflict with the legal rule of more witnesses, for who else would be capable of bearing witness to Him?

On the basis of the defence of his right to heal on the Sabbath and call God his father (John 5:19–30), it might be alleged that Jesus appeared as a single testimony in his own case. In terms of the criterion of multiple witnesses found in biblical laws such as Num 25:30, Deut 17:6, and Deut 19:15, such a single testimony was prohibited.³⁸ In this context, however, Jesus is not explicitly charged by the ‘Jews’ with testifying on his own behalf. We are told only that he himself considers such a testimony as invalid: “If I testify about myself, my testimony is not valid” (5:31). Accordingly, he then presents three other valid witnesses on his behalf (5:32; 36–39). Thus, Jesus accepts the prohibition of a single testimony and the requirement of at least two or three witnesses.

In John 8:12 Jesus claimed: “I am the light of the world [...]” The Pharisees consequently posed a judicial charge, “You are bearing witness to yourself: your testimony is not true,” 8:13. One may claim, with P.N. Anderson, that the Pharisees accuse Jesus of having spoken presumptuously about himself.³⁹ A more adequate point of view would be that a specific judicial objection against

³⁸ The claims of Jesus come closest to the language of Deut 19:15; cf. Labahn 2007, 85–86.

³⁹ Anderson 1999, 49.

bearing a single testimony is raised.⁴⁰ Here, this criticism against Jesus' single testimony on his own behalf is in agreement with Jesus' own words in John 5:31. Nevertheless, in John 8:14, Jesus claims the right to give a single testimony: "Even if I do bear witness to myself [...]" According to John, Jesus is God's Son, and thus has a divine nature. He is therefore one with the Father and can bear witness to himself. John presupposes a Jewish debate about the legal rule against single testimony and the problem it arises when it is applied to God, a debate corresponding to the one documented in Philo.

5.3 *The Requirement of More Than One Testimony*

The forensic debates about a valid testimony reflected in Philo and John deal with the prohibition of a single testimony and the preference for multiple witnesses. In Philo we have just one explicit statement of the prohibition of a single testimony. In *Spec.* 4:53–55, Philo presents this principle as a 'special law' in relation to the Ninth Commandment in the following terms:

He [Moses] added another excellent injunction when he forbade them to accept the evidence of a single person (ένδός μαρτυρίαν), first because the single person may see or hear imperfectly or misunderstand and be deceived, since false opinions are numberless and numberless too the sources from which they spring to attack us. Secondly, because it is most unjust to accept a single witness against more than one or even against one; against more than one, because their number makes them more worthy of credence than the one; against one, because the witness has not got preponderance of number, and equality is incompatible with predominance. For why should the statement of a witness made in accusation of another be accepted in preference to the words of the accused spoken in his own defence? Where there is neither deficiency nor excess it is clearly best to suspend judgement.

Some brief comments on this text in comparison with John: First, a passage in the Mishnah, dealing with marriage cases, presupposes the prohibition of single testimony: "None may be believed when he testifies of himself" (*m. Ketub.* 2:9).⁴¹ This shows that the rule of prohibition of single testimony is broadened to apply to the principle that no man may bear witness on his own behalf.

⁴⁰ This is correctly seen by Salomonsen 1973, 178.

⁴¹ The reference is taken from *The Mishnah. Translated from the Hebrew with Introduction and brief Explanatory Notes* 1933, 247.

Philo offers first-century evidence that a broadening of the prohibition of single testimony could be applied to the principle that no man may bear witness on his own behalf. Thus, in *Spec.* 4:53, the prohibition of single testimony is compared to the words of the accused who speaks in his own defence: “For why should the statement of a witness made in accusation of another be accepted in preference to the words of the accused spoken in his own defence?” In John 5:31, we need to presuppose such a forensic referential background regarding the prohibition of self-witness. Accordingly, in John 5:31, Jesus himself accepted the requirement of more than one witness in order for a testimony to be valid; this is why he appealed to the Father’s testimony on his behalf as a second witness. Thus, it seems to be in the sense of a valid testimony that we are to take Jesus’ words: “If I witness about myself, my testimony is not valid (ἀληθής = ‘valid’)”.⁴²

Second, Philo’s universalizing application of the prohibition of the single testimony to any case recalls the statement in LXX Deut 19:15 that “*any* matter” or “*any* word” will be established on the evidence of two or three witnesses.⁴³ It is noteworthy that such a broadening use of Deut 19:15 to prove a case is found in the treatise *De Iosepho*. Here Philo lets the patriarch Joseph apply a series of three witnesses to prove the case of the estranged brother’s faithfulness (*Ios.* 235). A non-specific and universalizing application of Deut 19:15 may explain why “John is not dealing with witnesses necessary to condemn a man, but with witnesses to confirm someone’s testimony.”⁴⁴ In short, when John applies the criterion of multiple testimonies to the defence of a case, rather than to its prosecution, this is most common throughout the Hebrew Bible, Second Temple literature, and the New Testament,⁴⁵ and Philo may show that it is reasonable.⁴⁶

42 Cf. Thyen 2005, 319: “Da es in diesem Rechtsstreit nicht um die Rekonstruktion oder ‘Aufdeckung’ irgendeiner abstrakten ‘Wahrheit’, sondern ganz konkret um die Glaubwürdigkeit des Zeugen geht, wird man das Predikat der Apodosis οὐκ ἔστιν ἀληθής am besten mit “ist nicht glaubwürdig” wiedergeben.”

43 Cf. the recent study by S.J.K. Pearce (2012, 321–336) on the topic of the prohibition of single testimony in Philo’s writings as compared to the Dead Sea Scrolls. She does not, however, draw on the comparative data provided by John.

44 Brown 1966, 1.223.

45 Cf. van Vliet 1958, 27–28.

46 Against this background, J.D. Atkin’s emphasis (2013, 286–288) that John’s application of the multiple-witness criterion almost looks like an anomaly and an innovation with respect to the common rule should be nuanced.

Third, both authors assume that a number of witnesses have greater credibility than one witness alone. Unlike John, however, Philo focuses on the prohibition of the single testimony without discussing the number of witnesses that constitutes sufficient testimony. In John 8:13, the Pharisees object to Jesus' assertion about himself by claiming that it cannot be valid. Against the background of the reference to the rule of Deut 19:15 in John 8:17 about the demand for two witnesses, it is likely that the Pharisees conceived that Jesus was presenting a single testimony when he testified on his own behalf. In a way similar to Philo, John only summarizes the laws of testimony, rather than quoting from a Greek translation of Scripture. The fact that John 8:17 makes only a vague reference to Deut 19:15, without reproducing either the LXX or the Hebrew text, leaves the impression that H. Odeberg put as follows: "It is rather a free formulation of a legalistic rule, such as the Pharisees would establish, a rule that would, however, rightly be maintained to be 'written in the Torah'".⁴⁷

5.4 *The Problem of the Single Testimony Applied to God*

Both Philo and John reflect the problem that results when the exception of the prohibition of single testimony is applied to God. The point of departure is the objection against self-testimony quoted by Philo:

They say indeed that an oath is a calling God to witness to a point which is disputed; so if it is God that swears, He bears witness to Himself, which is absurd, for he that bears the witness must needs be a different person from him on whose behalf it is borne.⁴⁸

Leg. 3:204–205

Philo's immediate reply to this objection is that only God is capable of giving witness to his own self: "First that there is nothing amiss in God bearing witness to Himself. For who else would be capable of bearing witness to Him?" (*Leg.* 3:205). This exception to the prohibition against self-witness is emphasized throughout *Leg.* 3:206–208:

Nay He *alone* (μόνος) shall affirm anything regarding Himself since He *alone* (μόνος) has unerringly exact knowledge of His own nature.

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⁴⁷ Odeberg 1929, 292–293.

⁴⁸ Cf. similar 'definitions' of an oath in *Dec.* 86; *Spec.* 2:10; *Sacr.* 9; *Plant.* 81.

God therefore is the strongest security first for Himself, and in the next place for His deeds also, so that He naturally swore by Himself when giving assurance as to Himself, a thing impossible for another than He.

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[...] but let God be His own most sure guarantee and witness (μαρτυρία).

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Such statements make the point that God's witness is self-authenticating, because God alone can be able to testify to God. In the context of a divine jurisdiction, however, only God can give a single testimony without coming into conflict with the requirement of two witnesses, for who else would be capable of bearing witness to Him? At this juncture, Philo's reply seems to presuppose the biblical laws of testimony with their requirement of at least two witnesses. Philo goes on to argue that only God can provide a single testimony, since God is transcendent and thus has not revealed his true nature to human beings:

Nothing that can give assurance can give positive assurance touching God, for to none has He shown His nature, but He has rendered it invisible to our whole race. Who can assert of the First cause either that It is without body or that It is a body, that It is of such a kind or that It is of no kind? In a word who can make any positive assertion concerning His essence or quality or state or movement? Nay He alone shall affirm anything regarding Himself since He alone has unerringly exact knowledge of His own nature.

Leg. 3:206

[...] so that He naturally swore by Himself when giving assurance as to Himself, a thing impossible for another than He. It follows that men who say that they swear by God should be considered actually impious; for naturally no one swears by Him, seeing that he is unable to possess *knowledge* regarding his nature.

Leg. 3:207

It is my suggestion that this reasoning about self-authentic witness applied to God, as documented by Philo, provides a referential background for the statement in John 5:37–38. In John 5:37a, Jesus said: “And the Father who sent me has himself (ἐκείνος) borne witness to me.” As we pointed out in the research survey above, it is not clear to what the specific witness borne by the Father refers. I would argue that there is a distinction between the other witnesses,

viz. the “works”, and the “Scriptures”, explicitly mentioned in John 5:36 and John 5:39, and God’s own witness, referred to in John 5:37.⁴⁹ If the Father’s witness alludes to God’s self-authenticating testimony, however, this could explain both the emphasis on the demonstrative pronoun ἐκεῖνος in John 5:37a and the statement that follows in John 5:37b–38: God’s voice has not been heard, nor has his form been seen; and they [i.e. the ‘Jews’] do not have his word abiding in them. My proposal is that the words of John 5:37b are a statement of a fact and of the recognized principle about God’s transcendence. The fact is that the ‘Jews’ have never heard the voice of God or seen his form.⁵⁰ The principle is that there is no direct access to God, because He is transcendent, and his form and voice are thus not immediately accessible and assessable. Hence, in a way that corresponds to Philo, John emphasizes the divine transcendence in order to rule out other ways in which it might have been possible to bear valid witness to God. Thus, the meaning of John 5:37–38 can be paraphrased as follows: “Jesus said: The most adequate evidence of all is that the Father has himself borne witness to me. This is a single authenticating testimony, because *only* my Father *himself* can testify to the divine relation between himself and me. If you suggest any other ways in which one might have been expected to validate such a witness, this must be ruled out. The reason is that you have no direct access to God’s testimony; since you have never heard his voice and never seen his form; and in addition: since you refuse to believe in me, this shows that his word could not be abiding in you either.”⁵¹

Such an understanding of John 5:37–38 is also supported by Jesus’ claim in John 5:34 that he does not accept testimony from any human being. The meaning of this statement in the context is that a human testimony such as the Baptist’s would not have been adequate from Jesus’ point of view. The matter which requires evidence is the relationship of Jesus to the Father, and this cannot rest on human witnesses, but only on God. Accordingly, only God can testify to divine relationships. Where John 5:37–38 suggest that the self-

49 Cf. for this view, Hakola 2005, 150; Thyen 2005, 323.

50 B. Lindars (1972, 229), commenting on John 5:37b, is probably right when he claims that the Jewish rabbis would certainly agree with Jesus about the issue of divine transcendence. The evidence in Philo, *Leg.* 3:205–208, substantiates such a point of view.

51 It is plausible that John 5:37–38 implies a polemic against Jewish claims to participate in the Sinai theophany as visionaries. Elsewhere in John, we meet the denial that anyone has ever seen God (John 1:18; 6:46), which seems to be a polemic against the idea of Moses’ ascent to heaven when he ascended the mountain and against similar claims of, or for, other human beings, cf. Philo, *Mos.* 1:158–159; Josephus, *Ant.* 3:96; *L.A.B.* 12:1; 4Q491 (frag. 11) 1:12–19; *Mek. Exod.* 19:20; *Num. Rab.* 12:11; *Midr. Ps.* 24:4 and 106:2.

authenticating witness of God could not be validated by other means, John 8:14 correspondingly points out that Jesus is so one with God that his testimony is self-authenticating. Again, the implicit presupposition in both texts is that, by definition, God needs no one to validate God's self-testimony. In addition, in John 8:18 the line of thought is that Jesus' testimony/witness to himself and his Father's testimony amount to the same thing because of the unity between the Son and the Father. We can observe that Jesus, when speaking of himself, uses the expression—"I am—the one who bears witness about myself"—to stress his identification with God as a self-authenticating testimony. Thus, the theme of God's self-authenticating testimony in John becomes christological: God testifies to himself through the words and works of Jesus.

Jesus unites the divine and human realms, as John 8:14 states: "Even if I do bear witness to myself, my testimony is valid, for I know whence I have come and whither I am going" (i.e. Jesus belongs within the divine realm and jurisdiction). Likewise, in John 8:17–18, Jesus refers to the law that requires at least two witnesses: "In your law it is written that the testimony of two men is true; I bear witness to myself, and the Father who sent me bears witness to me." The formulation "in your law" in 8:17 is scarcely to be understood as referring to the Jewish law seen from a non-Jewish or Christian perspective.⁵² At this point, it is relevant to quote an overlooked observation by H. Odeberg: "*God never says 'our Law' but either 'my Law' or 'your Law'. J[esus] stands in the same relation to the Torah as his Father.*"⁵³ Accordingly, the phrase may refer to the law as it functioned within the human jurisdiction, as distinct from the divine realm or jurisdiction. The Son and the Father are seen as equal partners within the framework of a divine jurisdiction, and who therefore can bear witness together. Thus, the witnesses of the Son and the Father within the divine realm and jurisdiction provide sufficient validation according to the law of testimony on the level of an earthly jurisdiction.

Moreover, John 8:14 seems to follow the same argumentative pattern as John 5:37–38. In John 8:14, the validity of the self-authenticating testimony of Jesus, who knows his divine origin, is emphasized in contrast to the Pharisees' lack of knowledge: "Even if I do bear witness about myself, my testimony is true, but you do not *know* whence I *come* and whither I am *going*".⁵⁴ The rationale here

52 So e.g. Schnackenburg 1977, 2.246 n. 3.

53 Odeberg 1929, 292.

54 Cf. Thyen (2005, 424), who reads John 8:14 in light of John 5:34: "Die 'Wahrheit' auch seines Zeugnisses für sich *selbst* begründet Jesus also mit seinem *Wissen* um sein Woher und sein Wohin. Wie er als der einzige Sohn, "den Gott nicht dazu gesandt hat, dass er die Welt verurteile, sondern dazu, dass die Welt durch ihn gerettet werde" (3,17), um seinen

is stated as an epistemological argument. Jesus knows where he has come from and where he is going. W.A. Meeks emphasizes the issue of Jesus' descent and ascent as the content of his esoteric knowledge and as the key to understanding Jesus' identity throughout John's Gospel:

The pattern in John of descent and ascent becomes the cipher for Jesus' self-knowledge as well as for his foreignness to the men of this world. His testimony is true *because* he alone knows "where I come from and where I am going" (8:14). The evangelist has laid the groundwork for this statement. In 3:8 he introduced the motif, with the statement to Nicodemus that of both the Spirit and of the one born of the spirit (= "from above") "you do not know where he comes from and where he goes." The Jerusalemites at the feast of the Tabernacles think they know where Jesus is from: his Galilean origin precludes his being the Prophet or the Christ (7:37–52). [...] the dialogue itself tells the reader that the Jews do not really know where Jesus is from (7:28–29: he is from God), but in a later dialogue he has them admit that they do not know where he is from (9:29: "We know that God spoke to Moses, but this man—we do not know where he is from"). Pilate also asks Jesus, "Where are you from?" (19:9) and receives no answer. The descent and ascent of the Son of Man thus becomes not only the key to his identity and identification, but also the primary content of his esoteric knowledge which *distinguishes* him from men who belong to "this world."⁵⁵

There is a noteworthy parallel to this epistemological argument in Philo. In a way that corresponds to John 8:14, Philo refers in *Leg.* 3.205–206 to the esoteric knowledge of God with regard to his essence, quality, state, and movement as the reason why only God can testify to himself:

Secondly, He Himself is to Himself all that is most precious, kinsman, intimate, friend, virtue, happiness, blessedness, *knowledge, understanding*, beginning, end, whole, everything, judge, decision, counsel, law, process, sovereignty [...]

Auftrag weiss und—wie er 5,34 bereits erklärt hatte—keines Menschen als seines Zeugen bedarf (ἐγὼ δὲ οὐ παρὰ ἀνθρώπου τὴν μαρτυρίαν λαμβάνω), ist es unvermeidlich, dass er für sich selbst zeugen muss." Unfortunately, Thyen's interpretation of John 5:37–38 does not employ the same kind of reasoning as in his reading of John 8:14.

55 Meeks 1972, 44–72, esp. p. 60.

In a word who can make any positive assertion concerning His essence or quality or state or *movement*? [...].

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Nay *He alone* shall affirm anything regarding Himself since *He alone* has unerringly exact *knowledge* of His own nature.

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A presupposition of this way of arguing about God seems to be the wide currency of the principle “like is known by like” in antiquity.⁵⁶ Philo’s emphasis that God’s existence cannot be apprehended by any human co-operation is probably due to this principle of likeness.⁵⁷

5.5 *The Distinction between the Human and the Divine Testimony*

As we have observed in the preceding section, John operates like Philo within two jurisdictions, the divine context of law and the law on the earthly level of human beings. Bultmann hinted at this distinction in his comment on John 5:34: Jesus cannot accept the witness of men, since that would mean “that there is a commensurable relationship between human and divine standards [...]”.⁵⁸ The Baptist’s witness obviously served a different function from that of divine testimonies. It was not evidence in the legal sense which was required, but a pointer on a human level to Jesus as the agent of salvation, so that people might turn to Jesus and be saved (John 5:33–36). In both John 5:31 and 8:14, Jesus presupposes that if he, as a mere human being, had witnessed in his own case, his testimony would be invalid. Here Jesus not only accepted the prohibition of single testimony, but also immediately appealed to the necessity of more witnesses. Thus, in John 5:31–47 Jesus refers to other witnesses: the “works” given to Jesus (5:36), the Father (5:37), the internal “Law” in human hearts (5:38), and the “Scriptures” (5:39). In the preceding section, I commented on the witness given by the Father, according to John 5:37. At this juncture, I shall take a glance at the validation provided by these other witnesses.

John 5:36 says that Jesus’ “works” bear witness to him that “the Father has sent me”. In the Johannine context, “signs”, such as the healing of the paralytic (5:1–9) and the feeding of the five thousand (6:1–21), validate Jesus’ “works”: They prove Jesus’ relationship to the Father, because they are done with God’s

56 The principle is recorded, according to the work *Math.* 1.303, by Sextus Empiricus (2nd–3rd century CE).

57 Cf. Sandnes (2005, 153–173, esp. pp. 158–162), who compares Philo and John on this point.

58 Bultmann 1971, 264.

authority, with the aim of fulfilling his redemptive purpose. In John, there is an emphasis on Jesus' functional union with his Father for the purpose of avoiding any ditheistic accusations against Jesus.⁵⁹ John 5:36 solves this problem by emphasizing that Jesus was entirely dependent on God.⁶⁰ According to John 8:29, Jesus did nothing by himself, but only what he had been taught by his Father. Moreover, John 10:25, 32, 37 emphasize that the "works of the Father" are the "works" of Jesus. Thus, again, the idea that God can testify to himself and also to his own works seems to be presupposed when the christological claim is made in John 5:36 and 10:25 that "the works of the Father" testify to Jesus and to the divine origin of his mission.⁶¹ *Leg.* 3:207 likewise expresses such an idea of God's self-authenticating validation of his own works: "God alone therefore is the strongest security first for Himself, and in the next place for His *deeds* also [...]"⁶² Moreover, in *Mos.* 2:263 Philo characterizes the "sign" (σημείον) of manna falling from heaven as a testimony (μαρτυρία).

John 5:38–39 seems to presuppose the idea that a testimony might be provided by the internal Law in human hearts and by the external exposition of the Scriptures. In John 5:38, the thought may be that God bore witness to Jesus in the sense that He gave the Law of Moses as an internal testimony within human hearts (cf. Deut 30:14). Since the Law testifies to Jesus (cf. John 5:46), the Law no longer stays alive within them, because they do not believe in Jesus: καὶ τὸν λόγον αὐτοῦ οὐκ ἔχετε ἐν ὑμῖν μένοντα, ὅτι ὃν ἀπέστειλεν ἐκεῖνος, τοῦτω ὑμεῖς οὐ πιστεύετε ("and you do not have his word abiding in you, because you do not believe him whom he has sent"). Again, *Leg.* 3:208 provides an analogy to the conception of the Law, viz. the 'Logos', accredited to human beings as a testimony. Using the exegetical method of confirming one reading of the biblical text against an alternative one,⁶³ Philo may presuppose a distinction between God's own testimony within the divine realm and the witness of the divine word on the level of human beings, which in the context of *Leg.* 3:207 is characterized as "the interpreting word" (τοῦ ἐρμηνέως λόγου), accredited to human beings:

59 On the problem of Johannine Christology and monotheism, see, e.g., Hartman 1987, 85–99.

60 Correspondingly, when Philo in *Deter.* 160–161 solves the problem of ditheism with regard to Moses, he makes it clear that God is himself active, while Moses was passive when he appeared as god. This can be seen in Philo's statement of the biblical expression that God gave him as "god to Pharaoh" (Exod 7:1).

61 Cf. also John 10:37–38. Cf. Schnackenburg 1977, 2.121.

62 Cf. also Josephus, *Ag. Ap.* 2:53.

63 Cf. Borgen 1997, 155. Philo's use of this method (cf. e.g., *Migr.* 1: 43) has parallels in rabbinic exegesis such as *Mek. Exod.* 15:11, and also in Gal 3:16.

Moses too, let us observe, filled with wonder at the transcendency of the Uncreate, says, "and thou shalt swear by His name" [Deut. vi. 13], not "by Him," for it is enough for the created being that he should be accredited and have witness borne to him by the Divine word (μαρτυρεῖσθαι λόγῳ θεῷ); but let God be His own most sure guarantee and evidence.

Leg. 3:208

The validation of the Scriptures provided by external study was widespread among Jews, especially since the Scriptures contained the laws of the Jewish society. Accordingly, John addresses the 'Jews' in a more formal way as interpreters of the Scriptures: "You search the Scriptures (ἐραυνάτε τὰς γραφάς), because you think that in them you have eternal life; and it is they that bear witness to me." In the literary context of John 5–6, John 5:39 functions as a hermeneutical principle with a parallel formulated in John 5:46: "If you believed Moses, you would believe me, for he wrote of me." The phrase ἐραυνάτε in John 5:39 is a Greek equivalent for the technical term for performing midrashic exegesis (שׁוּרְר). The Scripture quoted in John 6:31 and its midrashic exposition in the subsequent vv. 31–58 can be seen to serve as an illustration of the searching of the Scriptures and their witness to Jesus mentioned in John 5:39.⁶⁴ Thus, on the basis of the hermeneutical key formulated in John 5:39, the pronouncement in John 6:35a, "I am *the bread* of life", renders the precise meaning of the central term in the Scriptural quotation in v. 31b: "*bread* from heaven he gave them to eat". The Old Testament quotation in John 6:31b and its exposition in John 6:35a bear witness to Jesus. In *Leg.* 3:162, we have a close parallel to John 5:39. There we find the transitional formulation with the verb μαρτυρέω as the key word: "That the food of the soul is not earthly but heavenly, we shall find abundant evidence in the Sacred Word (μαρτυρήσει διὰ πλειόνων ὁ ἱερὸς λόγος)." Thus, we find here a correspondence to the idea in John 5:39 that the "Scriptures" bear witness to Jesus, who, according to John 6:31–58, is "the bread of life" which came down from heaven. In the light of its immediate context, John 5:39 expresses the hope that the 'Jews' may be able to have witness borne to them of the life available through Jesus, for they approach the Scriptures through learned exposition in the hope that in them they may have eternal life, and the Scriptures testify to Jesus. According to John, however, both the internal testimony of the Law and the witness provided by learned study of the Scriptures seem to be in vain, since they refused to believe in Jesus.

64 Cf. Borgen 1996a., 217.

6 Summary

The following points summarize the observations of this study:

1. The judicial controversy reflected in John (John 8:12–20) and Philo (*Leg.* 3:205–208) follows the discourse of problem-solving exchange in the form of ‘questions and answers’. Philo’s writings show that the use of such a form is appropriate when John reports about a learned setting within Judaism, such as the teaching activity that took place in the synagogues and in the temple courts.
2. The parallel material in Philo, *Leg.* 3:205–208 provides evidence for the view that the debate on valid testimony reflected in John 5:31–40 and 8:12–20 is a specifically ‘Christian’ version of a discussion which most probably also went on among Jews in Alexandria.
3. Philo offers first-century evidence that a broadening of the prohibition of single testimony might be applied to the principle that no man may bear witness on his own behalf. Thus, *Spec.* 4:53 shows that the prohibition of single testimony could be juxtaposed with the words of the accused who speaks in his own defence: “For why should the statement of a witness made in accusation of another be accepted in preference to the words of the accused spoken in his own defence?” In John 5:31 and 8:13, we need to presuppose such a forensic referential background for the rejection of a self-testimony as valid evidence.
4. Against the background of the reference to the rule in John 8:17 about the requirement of two witnesses, it is likely that the Pharisees held that Jesus was presenting a single testimony when he testified on his own behalf. In a way similar to Philo, John here only summarizes this law of testimony, rather than quoting from a Greek translation of Scripture. Philo’s non-specific and universalizing application of Deut 19:15 to prove a case or clinch an argument may explain why John deals with the witnesses who are needed to confirm someone’s testimony. Thus, both authors assume that a number of witnesses have greater credibility than one witness alone.
5. In particular, the view represented by Philo, viz. that only God was capable of giving a self-authenticating testimony, may illuminate the Jewish background of the point made by John that Jesus could testify in his own case because of his divine origin. According to Philo, God might give a single testimony without coming into conflict with the biblical requirement of at least two

witnesses. It is my suggestion that the kind of a self-authentic witness by God and the reasoning behind it, which is documented by Philo, provides a further referential background for the statement in John 5:37–38. Thus, the words of John 5:37b state the reason for God's self-testimony by emphasizing the principle of God's transcendency, which implied that the "form" and voice of God are not immediately accessible. Hence, in a way that corresponds with Philo, John emphasizes the divine transcendence in order to rule out other ways in which it might have been possible to bear a valid testimony to God.

6. According to John 8:14, Jesus takes up God's role as an exception from the rule that no one can witness in his own case. The rationale is then stated as an epistemological argument in terms of *knowing* where Jesus has *come from* and where he is *going*. In correspondence to John 8:14, Philo refers in *Leg.* 3:205–206 to the esoteric *knowledge* of God with regard to his essence, quality, state, and *movement* as the reason why God can testify to himself.

7. The idea that God can testify to himself and also to his own works seems to be presupposed when the christological claim is made in John 5:36 and 10:25 that "the works of the Father" testify to Jesus and to the divine origin of his mission. In *Leg.* 3:207, such an idea of God's self-authenticating validation of his own works is also applied. Moreover, *Mos.* 2:263 characterizes the "sign" (σημεῖον) of manna falling from heaven as a "testimony" (μαρτυρία).

8. John 5:38–39 seems to presuppose the idea that a testimony might be provided by the Law and by the external exposition of the Scriptures. In John 5:38, the thought may be that God gave witness to Jesus in the sense that He gave the Law of Moses as an internal testimony within human hearts (cf. Deut 30:14). But since the Law testifies to Jesus (cf. 5:46), the Law no longer stays alive within them, because they do not believe in Jesus. Philo, *Leg.* 3:208, provides an analogy to the conception of the Law, viz. the 'Logos', accredited to human beings as a testimony. Likewise, we find here an analogy to the idea in John 5:39 that the "Scriptures" bear witness to the 'Jews' about Jesus, who is the source of the life for which the 'Jews' are searching. According to John, the learned study of the 'Jews' and the testimony of the Law seem to be in vain, since they refuse to believe in Jesus. Such observations support the conclusion that both Philo and John distinguish between testimonies on the divine level and testimonies accredited on a human level. According to John, both levels of testimonies attest to the 'identity' of Jesus.

The Reversal of the Accusations of Blasphemy: John 5:1–18 and 10:31–39 in a Jewish Context

1 Thesis

The main questions to be dealt with in this chapter are: How can a specific human being, viz. Jesus, accused of blasphemy and executed as a criminal, claim to be divine, as the Son and the agent of God? How can the divine dimension of Jesus be legitimated and given legal authority in specific events and contexts? In this chapter I shall search for new answers to these questions by means of an analysis of aspects of John 5:1–18 and 10:31–39. These texts provide elements and clues of what I will describe as two judicial levels, viz. the levels of a human and a divine jurisdiction.¹

On the one hand, in John the ‘Jews’ represent the people who know Jesus as a human being, which means that he cannot be the Son of God. The key to understanding the way the ‘Jews’ understand Jesus is found in John 6:42: “They were saying, ‘Is not this Jesus, the son of Joseph, whose father and mother we know?’” So, when the ‘Jews’ heard Jesus speaking of his Father, they grasped immediately the implication that Jesus broke away from a human fatherhood and referred to God as his Father, and thus committed the crime of blasphemy. Likewise, in the eyes of the ‘Jews’, when Jesus applied to himself the divine prerogative related to God’s continuing work on the Sabbath, he clearly overstepped the limits of human nature and made himself equal to God. Thus, from the position of the ‘Jews’ and on the ground of the judicial authority of the Law of Moses, the charge of blasphemy against Jesus was legally appropriate and merited the death sentence. For this reason the Jewish authorities at once sought to kill him (5:18), for example, by having him stoned on the spot (10:31, 33).

On the other hand, according to John, a divine judicial authority and what might be denoted as a ‘divine Halakha’, also attested by the Law of Moses, could apply to the case of Jesus. Hence, in the literary strategy of the evangelist, the accusations against Jesus on the basis of the jurisdiction of the Law and

1 In this essay, I shall use the judicial terms ‘jurisdiction’ and ‘judicial authority’ as synonyms. See Walford 2007, 60.

an earthly Halakha might be turned upside down and be given a contrasted meaning when seen from the level of a divine judicial authority and within the framework of a 'divine Halakha'. Hence, John's narrative response is ironic in the sense that what seems to be legal crimes from the point of view of the 'Jews' is true from the point of view of a divine jurisdiction. Thus, if Jesus as a human being was the heavenly agent of God, he could perform the divine activities on the Sabbath and claim the status of being the Son of God legitimately without being charged with such crimes as breaking the Sabbath and blasphemy.

I shall proceed as follows: The first part of the chapter deals with some possible allusions to Gen 2:2–3 in John 5:1–18 in its Jewish context. I shall then examine the use of Ps 82:6 in John 10:34–36. In both parts, I shall shed new light on the Johannine texts from the Jewish background to which these texts appear to refer. The study will be rounded off by a summary.

2 The Legal Precedent of Divine Sabbath Halakha: John 5:1–18 in a Jewish Context

2.1 *Philo's Use of Gen 2:2–3 in Leg. 1:5–18 and Migr. 89–93*

Philo's writings attest that the rhetorical or literary device of problem-solving exegesis is employed in his exposition of Scripture.² Such an exegetical operation was part of the teaching activity in the Synagogue in Philo's time, as suggested by his report on the expository activity among the Therapeutae: "[...] the President of the company [...] discusses some questions arising in the Holy Scriptures or solves one that has been propounded by someone else" (*Contempl.* 75). Against such a background, it is to be expected that Philo would draw on such an exegetical method in his exegetical discourses. An example is provided by Philo's use of Gen 2:2–3 in *Leg.* 1:5–18. Before I consider aspects of the exegetical problem Philo discusses here, some words on the context and the outline of the section are in order.

Philo's expository use of Gen 2:2–3 in *Leg.* 1:5–18 is part of the running commentary on Gen 2:2–4 in *Leg.* 1:2–20. *Leg.* 1:5–18 is a self-contained unit, in which § 18 provides an inclusio, pointing back to the initial exegesis of Gen 2:2–3 in § 5:

First of all, then, on the Seventh day the Creator, having brought to an end the formation of mortal things, begins the shaping of others more divine.

² Borgen 1997, 86–91; Bekken 2014 (forthcoming).

For God never leaves off making, but even as it is the property of fire to burn and of snow to chill, so it is the property of God to make: nay more so by far, inasmuch as He is to all besides the source of action.

Leg. 1:5

But we pointed out that God when ceasing or rather causing to cease, does not cease making, but begins the creating of other things, since He is not a mere artificer, but also Father of the things that are coming into being.

Leg. 1:18

Leg. 1:5–18 can be divided in the following parts: (1) §§ 6–7 together with § 16a give a paraphrastic commentary on Gen 2:2b; (2) §§ 8–15 are an inserted excursus on the number “7”; (3) in § 16b, Gen 2:3a is quoted and commented; (4) in § 17, Gen 2:3b is quoted, while in § 18, words from this quotation are briefly paraphrased. In what follows, I shall emphasize a few distinctive points which emerge from Philo’s exposition of Gen 2:2–3 in this section and the meaning he ascribes to the Sabbath, which may also be relevant to the comparison with John 5:1–18 later on.

First, Gen 2:2–3 in the LXX and its translation:

καὶ συνετέλεσεν ὁ θεὸς ἐν τῇ ἡμέρᾳ τῇ ἕκτῃ τὰ ἔργα αὐτοῦ ἃ ἐποίησεν καὶ κατέπαυσεν τῇ ἡμέρᾳ τῇ ἐβδόμῃ ἀπὸ πάντων τῶν ἔργων αὐτοῦ ὧν ἐποίησεν. καὶ ὑψόγησεν ὁ θεὸς τὴν ἡμέραν τὴν ἐβδόμην καὶ ἡγίασεν αὐτήν ὅτι ἐν αὐτῇ κατέπαυσεν ἀπὸ πάντων τῶν ἔργων αὐτοῦ ὧν ἤρξατο ὁ θεὸς ποιῆσαι.

And on the sixth day, God finished his works that he had made, and he left off on the seventh day from all his works that he had made. And God blessed the seventh day and he hallowed it, because on it he left off from all his works that God had begun to make.

According to these verses from the creation narrative of Genesis, God rested on the Seventh Day, and this caused a problem in Jewish circles, since God can never cease to be active and at work. Already Aristobulus dealt with the problem: “Thus God’s resting does not imply, as some suppose, that God ceased from activity; for being good, if he should ever cease from doing good, then would He cease being God [...]”³ Philo’s formulations contribute to such a Jewish debate

3 Fragment 5b in Clement, *Strom.* 6:16.141.7b. Greek text and English translation in Holladay 1995, 182–183.

and provide a solution.⁴ In *Leg.* 1:6, relying on the Septuagint rendering, Philo applies the exegetical method of confirming one particular reading of a text in contrast to an alternative one.⁵ Thus, he notices that Gen 2:2–3 has the transitive and active *κατέπαυσεν*, in contrast to the middle *ἐπαύσατο*: “κατέπαυσεν”, οὐχὶ “ἐπαύσατο”· παύει μὲν γὰρ τὰ δοκούντα ποιεῖν οὐκ ἐνεργούντα, οὐ παύεται δὲ ποιῶν αὐτός. (“‘caused to rest’, not ‘rested’ that which, though actually not in operation, is apparently making, but He Himself never ceases making”). The meaning is that God caused to rest the things he had created, while God himself continued to work. Thus, the true meaning of the Sabbath for Philo is that God is always active. Furthermore, in *Cher.* 86–90 we find the principle that God alone in the true sense keeps festivals as the Sabbath:

And therefore Moses often in his laws calls the Sabbath, which means ‘rest’, God’s Sabbath, not man’s [...] For in all truth there is but one thing in the universe which rests, that is God. But Moses does not give the name of rest to mere inactivity. The cause of all things is by its nature active; it never ceases to work all that is best and most beautiful. God’s rest is rather a working with absolute ease, without toil and without suffering.

Cher. 87

Thus, according to Philo, God has his own ‘Sabbath halakhah’ and his own divine way of observing the rest on the Sabbath, which does not stand in tension with the idea that God is continually at work on the Sabbath. This line of thought accords well with the later rabbinic exegesis, which maintains that the Sabbath commandment does not forbid carrying around something in one’s house on the Sabbath. Since God’s residence is the upper and lower worlds, He may thus create within it without coming into conflict with the Sabbath (*Exod. Rab.* 30:9).

Second, as we observe from some of the passages already quoted above, a particular emphasis is laid on the Sabbath, taken to mean that as God is continually at work in all creation and always active, whereas humans are in fact inactive and dependent on God in their doings. This view is affirmed by the words underscored in the following extracts of some of the relevant passages: “[...] it is the property of God to make: nay more so by far, inasmuch as He is **to all besides the source of action**” (*Leg.* 1:5); “[...] though actually

4 Rabbinic versions of the same issue are found in a whole series of statements, e.g., in *Gen. Rab.* 11:10; *Exod. Rab.* 30:9. Cf. Dodd 1953, 321–322; Barrett 1978, 213.

5 Cf. Borgen 1965, 62–65; 1997, 155–156; Bekken 2014 (forthcoming).

not in operation, is apparently making, but He Himself never ceases making" (*Leg.* 1:6); "[...] since He is not a mere artificer, but also **Father of the things that are coming into being**" (*Leg.* 1:18). In addition, two other texts express the same idea: "[...] the number seven [...]. Its purpose is that creation, observing the inaction which it brings, should call to mind **him who does all things invisibly**" (*Heres.* 170); "[...] the Seventh day is meant to teach **the power of the Unoriginate and the non-action of created beings**" (*Migr.* 91).⁶ In both these latter texts, the Sabbath rest on the part of all the creation is meant to facilitate the contemplation of God's activity and to underline the non-action of the creation in all its doings. Moreover, the ideas inherent in all these Philonic passages, that God never ceases to act, since he is the source of all action in all the creation, are also linked in the *Let. Aris.* 210: "What is the essence of godliness? He replied, The realization that God is continually at work in everything and is omniscient, and that man cannot hide from him an unjust deed or an evil action."⁷

Third, another distinct feature of Philo's interpretation of Gen 2:2 is the ambiguous meaning he ascribes to the Sabbath, viz. that it both marks an end to something and represents a new start or beginning. Thus, Philo emphasizes that Gen 2:2 means that God only rested from the first things he made in the past: "for this reason Moses adds after 'He caused to rest' the words 'from what He had begun'" (*Leg.* 1:6). An implication of this idea of God's continuous creative work on the Sabbath is the view that the creation is not complete. This consideration of the creative process is made clear when he compares God's dynamic creation with the things made by the static process of human arts, "[...] for whereas things produced by human arts when finished stand still and remain as they are, the products of divine skill, when completed begins again to move, for their endings are the beginnings of other things [...]" (*Leg.* 1:6). In *Leg.* 1:16–18, Philo applies the ambiguous meaning of the Sabbath to human life in an ethical way: "whenever there comes upon the soul the holy Logos of which seven is the keynote, six together with all mortal things that the soul seems to make therewith comes to a stop" (*Leg.* 1:16). It is interesting that Philo in *Leg.* 1:16–17 probably makes use of an exegetical tradition of the motif of Logos as the agent of God and divine light, whose appearance on the Sabbath brings into man's life a new beginning: "God both blesses and forthwith makes holy

6 This concept that God is the active cause in contrast to the passive creation is also found in other Philonic texts, cf. *Spec.* 3:178–180; *Det.* 161; *Fug.* 8–13. For a discussion of this idea and its relation to Greek philosophical theology, see further Runia 2001, 115.

7 Translation by R.J.H. Shutt, according to *OTP*, vol. 2, p. 26.

the dispositions set in motion in harmony with the seventh and truly Divine light, for closely akin are the character that is charged with benediction and the character that is holy" (*Leg.* 1:17). N. Walter comments on Philo's exegesis of Gen 2:1–3 in these paragraphs:

Es scheint, dass Philon derselben Auslegungstradition folgt, die schon bei Aristobulus vorliegt, in welcher mit der Erklärung von Gen. 2, 1–3 Spekulationen über den Zusammenhang von ἐβδομάς, φῶς und λόγος (in der Bedeutung "kosmisches Ordnungsgesetz") verbunden waren, wobei φῶς und λόγος zugleich auch als Hersteller der göttlichen Ordnung in der menschlichen Seele angesehen werden. Diese Auslegungstradition formt Philon in seiner Weise neu, indem er mit dem ἑβδομος λόγος seine Vorstellung von der λόγος-Hypostase verbindet, ohne ein wirklich einheitliches Ganzes daraus zu formen.⁸

I shall return below to this association of the Sabbath with the motifs of φῶς and λόγος, and its affinity with John. Furthermore, summarizing his paraphrase of Gen 2:2–3, Philo once again emphasizes that the reason for the condition of a blessed and holy life is that the formation of mortal things stops with the advent of the Sabbath, and that God begins the creating of other things on this day:

But the reason why the man that guides himself in accordance with the seventh and perfect light is both blessed and holy, is that the formation of things mortal ceases with this day's advent. For, indeed the matter stands thus; when that most brilliant and truly divine light of virtue has dawned, the creation of that whose nature is of the contrary kind comes to a stop. But we pointed out that God when ceasing or rather causing to cease, does not cease making, but begins the creating of other things, since he is not a mere artificer, but also Father of the things that are coming into being.

Leg. 1:18

With regard to the motif of the virtue of the divine light that brings to an end the ethical decline of human life, it seems again that Philo depends on a tradition attested by Aristobulus, according to Walter:

8 Walter (1964, 80–81), who refers to Aristobulus, Fragment 5 (Eusebius), *Praep. ev.* 12: 9–16.

Dass unter den θνητά (ganz wie bei Aristobulus unter λήθη und κακία) das ethisch Schlechte verstanden ist, zeigt sich dann in der Auslegung von φῶς (bzw. helleuchtendem und göttlichem φέγγος) durch die ἀρετή, die das Entstehen des ihr entgegengesetzten Wesens verhindert.⁹

Philo can throw light on his use of Gen 2:2–3 beyond the area of exegetical methods and exegetical traditions. His writings also illustrate how exegesis of the Laws of Moses, such as Gen 2:2–3, played a role in controversies in the Jewish community. In *Migr.* 89–93, Philo addresses “some” spiritualists who are in danger of interfering with established customs. Although they were aware of both the literal and the noetic aspects of the laws of Moses, they stressed the noetic meaning and neglected the literal observances. Philo exhorts himself and the (potential) spiritualists not to separate meaning from practice, intellectual understanding from observances. Philo gives in *Migr.* 91 the following advice to those who draw wrong conclusions from the fact that God is active on the Seventh Day, as Gen 2:2–3 states, according to Jewish exegesis:

It is quite true that the Seventh day is meant to teach the power of the Unoriginate and the non-action of created beings (cf. Gen 2:2–3). But let us not for this reason abrogate the enactments laid down for its observance, and light fires or till the ground or carry loads or demand the restoration of deposits or recover loans, or do all else that we are permitted to do as well on days that are not festival seasons [...]

The cosmic exegesis of Gen 2:2–3 is only presupposed by Philo in *Migr.* 89–93. According to *Migr.* 89–93, the (potential) spiritualists had a correct intellectual understanding of the laws, but were tempted to prefer a life-style at the expense of the external observances laid down in the Law. Thus, their emphasis on the noetic meaning of the Sabbath and the practical consequences of such a view can be seen as a reversal and the opposite of the stance Philo took, according to *Migr.* 91. Their view might be paraphrased as follows: Since the Sabbath gives witness to the fact that the power of Unoriginate (God) is continually at work in everything, and all creative beings are thus actually inactive in all their doings (cf. *Leg.* 1:6; *Heres.* 170; *Let. Aris.* 210), one can do on the Sabbath the same works as one does the other six days of the week. In Philo’s view, the (potential) spiritualists held acceptable views of the inner meaning of the Sabbath but he

9 Walter 1964, 80.

admonishes them for this very reason: The concrete and the spiritual aspects of the Law must go together. If not, Philo warns that they will be subject to censure and accusation by the Jewish community: "If we keep and observe these, we shall gain a clearer conception of those things of which these are the symbols; and besides that we shall not incur the censure of the many and the charges they are sure to bring against us" (*Migr.* 93).

2.2 *Allusions to Gen 2:2–3 in John 5:1–18 in Its Jewish Context*

The question in this section is: How is the divine dimension of Jesus present in the specific event of the healing of the paralytic in the context of the Sabbath, according to John 5:1–18? It is my suggestion that a closer scrutiny of how John interprets the Gospel traditions of the healing of the paralytic in terms of a Jewish interpretative tradition based on Gen 2:2–3 may afford fresh answers to this question. Before I consider in more detail the allusions to such an expository use of Gen 2:2–3 within the context of John 5:1–18, let me offer some brief notes on the use of traditions in John 5:1–18 in general.

With regard to the question of the traditions behind the miracle story in John 5:1–9, the view, which seems to have been a *communis opinio* among scholars, that John 5:2–9a, 14b was originally a 'self-contained miracle story', has come under attack.¹⁰ Thus, instead of the hypothesis of a single common tradition behind the miracle story, the suggestion of B. Lindars has recently received assent, viz. that it "is a fusion of a non-Synoptic Jerusalem tradition and the well-known Galilean story in Mark 2:1–12."¹¹ Furthermore, it is widely accepted among scholars that 5:9c–18 is a Johannine elaboration of the gospel traditions inherent in 5:1–9, centered on the issue of the Sabbath.¹² Accordingly, scholars such as J. Painter and P. Borgen have suggested that John 5:1–18 displays the structure of a case (John 5:1–9) followed by a halakhic controversy exchange in a Sabbath context (John 5:10–18) with parallels in Mark 2:23–28, Matt 12:2–6, and Luke 13:10–17.¹³ In this controversy, some distinctive features of the gospel tradition of the miracle story are highlighted and elaborated: 1. The absence of the motif of the Sabbath, which appears in John 5:9b (ἥν δὲ

10 Cf. Witkamp 1985, 19–47; Hägerland 2012, 45–50, 184–185.

11 Lindars 1972, 52. Hägerland (2012, 48) has most recently argued that Lindars' proposal seems to account best for the evidence: "While 5.2–7 reproduces a pre-Johannine miracle story set in Jerusalem, 5.8–9a is a pastiche of the source or the tradition that underlies Mark 2.1–12, here brought in to introduce the paralytic as a link to the Sabbath controversy of 5.9b–18."

12 Painter 1993, 221–224.

13 Painter 1993, 180; Borgen 1996a., 107.

σάββατον ἐν ἐκείνῃ τῇ ἡμέρᾳ [“Now that day was a Sabbath”]) and is repeated in John 5:10, 16, and 18, indicates that it is taken over from an oral tradition or a written source and inserted into the narrative account of John.¹⁴ It functions as a topical heading for the exposition of the legal issue introduced in John 5:10: ἔλεγον οὖν οἱ Ἰουδαῖοι τῷ τεθεραπευμένῳ· σάββατόν ἐστιν, καὶ οὐκ ἔξεστίν σοι ἄραι τὸν κράβαττόν σου (“Therefore the Jews were saying to him who was cured, ‘It is the Sabbath, and it is not permissible for you to carry your pallet’”). Moreover, in John 5:18 the discussion of the legal issue is rounded off by the reference to the acting person in the case story, Jesus himself, and the exposition of his crime of breaking the Sabbath. 2. The Sabbath issue was further facilitated by the emphasis on carrying the mat, taken over most probably from the source of tradition underlying Mark 2:1–12.¹⁵ Since it was considered a violation of the Sabbath, Jesus’ command in the sentence ἄρον τὸν κράβαττόν σου καὶ περιπάτει from v. 8 is repeated and paraphrased three times in John 5:10–13. 3. In John 5:14–16, the phrase ὕγιής γενέσθαι from v. 6 of the gospel tradition is repeated and paraphrased. The observations in points 1–3 support the suggestion that the controversy section in John 5:10–18 has the nature of an expository commentary to the case story, vv. 1–9.¹⁶ 4. Furthermore, Jesus’ admonition in John 5:14b (μηκέτι ἀμάρτανε) has been thought either to echo the tradition behind Mark 2:1–12, because of the relationship between the issues of illness and sin,¹⁷ or to have been the end of the Jerusalem tradition in John 5:2–7.¹⁸

There is a consensus among scholars that a widespread Jewish exegetical debate on Gen 2:2–3 is presupposed and utilized in the claim made in John 5:17, that God works up to now, including the Sabbath. Moreover, as several scholars have pointed out, the highlighting of the circumstance that the healing of the infirm man took place on the Sabbath suits such an appropriation of Gen 2:2–3 well. In this way, John 5:17 brings God’s upholding and providential activity to bear upon the understanding of the healing on the Sabbath.¹⁹ This approach is based on the literary theories of ‘metalepsis’ or ‘literary allusion’ derived from literary criticism,²⁰ which are devices in which one text echoes or alludes to an earlier text that evokes resonances of the pre-cursor text and its

14 See Witkamp 1985, 43 n. 94 for references to secondary literature.

15 Hägerland 2012, 48.

16 Borgen 1996a., 109.

17 Witkamp 1985, 27–28.

18 Haenchen 1959, 48–49; Witkamp 1985, 26–27.

19 Pancaro 1975, 16; Borgen 1987b., 89.

20 Cf. Hollander 1981; Ben-Porat 1976.

appropriation beyond those that are explicitly quoted or alluded to. Thus, the reader may need to recover unstated or suppressed correspondences between the two texts.²¹ Against this background, we may ask whether the competent listener contemporary with John would recall other resonances of a Jewish appropriation of Gen 2:2–3 in other aspects of John 5:1–18? Affinities between a Jewish interpretative employment of Gen 2:2–3 and some features of the Gospel tradition surveyed above suggest an answer in the affirmative. I now present my arguments for such a hypothesis.

1. When John 5:17 alludes to a Jewish exposition of Gen 2:2–3 about God's continuous work on the Sabbath and applies this idea to Jesus' work ("My Father is working still, and I also am working") made manifest in the healing of the lame on the Sabbath, it is immediately apparent to the 'Jews' that Jesus has committed blasphemy (John 5:18). In chapter two, I argued that the blasphemy was thought to increase Jesus' crime of violating the Sabbath by adding another cosmic aspect to it.²² Philo's juridical exposition of the 'double' crime of the Sabbath-breaker in *Mos.* 2:213–220 provides a parallel to John with regard to how a cosmic interpretation of the crime committed on the Sabbath might be perceived as increasing the aspect of the violation. Moreover, I suggested that both the actions of healing the lame man and the carrying of the mat might be regarded as abrogating the Sabbath halakha, and this seems to be supported by the use of the verb *λύω* in v. 18 in the light of Philo, *Migr.* 91. In this paragraph, Philo refers to fellow Jews who search for the 'cosmic' meaning of the Sabbath to such an extent that they abrogate its external observance:

It is quite true that the Seventh day is meant to teach the power of the Unoriginate and the non-action of created beings. But let us not for this reason abrogate (*λύωμεν*) the enactments laid down for its observance, and [...] carry loads [...] or do all else that we are permitted to do as well on days that are not festival days.

Migr. 91

²¹ On the application of the literary trope of 'metalepsis' to Pauline studies, cf. Hays 1989; 2005. The poetic trope of 'literary allusion' is applied to studies of the allusions of the Hebrew Bible in John by Menken 2010; 2012.

²² One can just wonder whether these two aspects of Jesus' crime of breaking the Sabbath might be the reason why John, in this passage, does not explicitly denote Jesus' crime of claiming a divine prerogative as blasphemy.

In his studies of the similarities between *Migr.* 91 and John 5:1–18, Borgen has observed that Gen. 2:2–3 is presupposed and applied to specific controversies related to Sabbath observance. Thus, Borgen emphasizes:

The Sabbath gives witness to the understanding that God is always active. This understanding is what matters. Thus there is freedom as to the specific observances, such as the prohibition against carrying a load. In John 5:10–12 the load is the mat carried by the one healed. Also the criticism of Jesus' healing on the Sabbath is in accordance with *On the Migration of Abraham* §§ 91–93, when Philo prohibits such actions that could be done just as easily on days other than on the festival seasons.²³

I concur with Borgen's interpretation of Philo in this regard, although I will add a nuance to his observations at one crucial point of the argument. It is not only the idea that God is always active that matters for Philo, but also the inference he draws from this, viz. the non-action of created beings on the Sabbath. Thus, as I have pointed out above, the view of the spiritualists whom Philo criticized might be paraphrased as a reversal of *Migr.* 91, as follows: Since the Sabbath gives witness to the fact that the power of the Unoriginate (God) is continually at work in everything, and all creative beings are thus actually inactive in all their doings (cf. *Leg.* 1:6; *Heres.* 170; *Let. Aris.* 210), one can do on the Sabbath the same works as one does the other six days of the week. Against such a background, the charge against Jesus on the part of the Jews because of the healing on the Sabbath may have been seen as an infringement of the prohibition of doing on the Sabbath what the Jews' "are permitted to do as well on days that are not festival seasons" (*Migr.* 91). That such a basic rule was applied to the criticism of Jesus' healing on the Sabbath is evident from Luke 13:14 as well: "There are six days on which work ought to be done; come on those days and be healed, and not on the Sabbath day." Hence, there is a basic similarity between the spiritualizing Jews and Jesus, whom Philo and the Johannine 'Jews' criticize, respectively. Both the spiritualists in Alexandria and the Johannine Jesus referred to the cosmic idea of God's continuous work on the Sabbath in defence of their freedom from the Sabbath observances. John's response would have been, however, that as Jesus functioned within a divine paradigm and jurisdiction as an intermediary agent, he decidedly did not equate himself with God. Accordingly, the accusations against him were mistaken. Thus, to John the idea inherent in Gen 2:2–3

²³ Borgen 2003, 76.

LXX and explicated in a widespread Jewish exegetical tradition could serve as a legal argument in favor of Jesus' appeal to a divine precedent for his behavior. From the ironic point of view of John, the 'Jews' seem apparently and formally justified in their charges and actions against Jesus. The irony lies in the truth John wishes to assert, viz. that Jesus' action on the Sabbath reveals his divine and heavenly origin.²⁴ On the level of humans, what apparently looked like breaking of the Sabbath and blasphemy, was from the position of a divine jurisdiction, attested by the creation story of the Law, in fact an expression of divine work and providence on the Sabbath. Thus, John refutes the accusations of blasphemy against Jesus by a reversal of his alleged crime: Jesus' healing actions on the Sabbath actually make manifest that he is "God". Just as it belonged to God alone to witness in his own case, so too, it is a divine privilege to create on the Sabbath, and Jesus takes part in this divine creative activity.

2. We have seen that a feature of the Jewish exposition of Gen 2:2–3 was that the creative beings are inactive and dependent on God in their doings. A similar line of thought seems to be presupposed in some aspects of John 5:1–18. In the first place, the sovereign initiative of the healing of the infirm man lies with Jesus. No reason for his choice is given; the action starts only because he "sees" and "knows" the man's condition. Then he begins to speak with him, and a dialogue takes place (John 5:9). The divine activity of God, appropriated to Jesus, comes to expression in the way Jesus is said to "know" that the man had been ill for a long time. Although Jesus might have known this by an inquiry, scholars assign this feature of omniscience to his divine supernatural knowledge.²⁵ This aspect comes also to expression in John 5:14b, and in the connection made between sin and illness, which seems to be attributable to Jesus' divine knowledge. Moreover, the insertion of this kind of omniscience on the part of Jesus is often found in John (1:48; 2:25; 4: 18, 29; 6:6; 16:30). Against this background, it is interesting that the *Let. Aris.* 210, as we have seen above, connects the ideas of God's omniscience and God as the source of all action in all beings: "The realization that God is continually at work in everything and is omniscient [...]".

24 Cf. Weiss 2003, 102: "Since the aim of the discourse that follows is to deny the Jewish understanding of the equality of the Father and the Son is correct, is the reader encouraged to understand that the charges about Sabbath breaking are also correct? It seems likely that the evangelist is thus suggesting that the "the Jews" are wrong on both counts."

25 Schnackenburg 1980, 2.121; Barrett 1978, 254.

Second, the motif that God is continually at work in everything is also expressed in the fact that the infirm man is inactive and dependent on Jesus, even in the carrying of the mat on the Sabbath. It seems that the Evangelist wants to show that the healing occurred at the command of Jesus: The infirm man was made whole and carried his mat, because Jesus told him to do so (5:8–9). It is striking that the formulations of v. 8 about Jesus' command return in 5:10–12 no less than three times. He evidently wants to emphasize this motif, and the obvious reason for this emphasis in the context of 5:1–18 must be to point to Jesus' authority and his right to share in the 'divine halakha' of being active on the Sabbath. Lindars is not far from a corresponding understanding when he comments on v. 11 against the background of the charge of violating the Sabbath posed in v. 10: "Rather in the style of a rabbinic disputation, the healed man sets against the halakhic ruling of verse 10 the ruling of another authority—Jesus himself."²⁶ Moreover, this authority is bolstered in how the focus placed on Jesus changes throughout vv. 10–18, from being the unknown healer who told the man to carry his mat (vv. 10–13), to being identified as the person who healed the man (vv. 14–16), and then finally to being revealed as the Son of God. Thus, the accusation that the command is illicit and the one who issued it a lawbreaker is given a contrasting meaning; Jesus is not a Sabbath breaker, but one who is in the position to act in the role of God on the Sabbath (vv. 17–18).

Third, the Greek idea that God, who is the origin and source of the activity of the creative beings, is also thought of as the power of motion (*κίνησις*) in the world.²⁷ Philo seems to employ this conception when he maintains that the creation is set in motion as the result of God's continuous work on the Sabbath: "the products of divine skill, when completed, begin again to move (*κινέω*) [...]" (*Leg.* 1:6).²⁸ This motif may also be evoked in the emphasis on the movement of the paralytic on the command of Jesus: "Rise, take up your mat and walk." It is likely that Jesus' powerful words are intended, in part, to demonstrate that the healing was complete and visible, or as Barrett puts it: "Just as the thirty-eight years prove the gravity of the disease, so the carrying of the bed and the walking prove the completeness of the cure."²⁹

²⁶ Lindars 1972, 216.

²⁷ Cf. Bultmann (1971, 246 n. 2), for references to Greek literature.

²⁸ See Runia 2001, 291.

²⁹ Barrett 1978, 254. Cf. also Thomas 1995, 11; Carson 1991, 244.

3. As mentioned above, another distinct feature of the Jewish exposition of Gen 2:2–3 is the ambiguous meaning ascribed to the Sabbath, viz. that it both marked an end to something and represented a new start. So, e.g., *Gen. Rab.* 11:10 testifies to the view that on the Sabbath, God's activity as physical creation came to an end, but not his moral activity. In a corresponding way, Philo provides evidence of an ethical interpretation of Gen 2:2–3 in *Leg.* 1:16–18, which draws the distinction in this way: “when the seventh and perfect light, the truly divine light of virtue has dawned, the creation of that whose nature is of the contrary kind comes to a stop.” Borgen has suggested that such an interpretation may also be presupposed in John 5:21:

Again, corresponding to this idea of a new beginning, the healing of the paralytic on the Sabbath, performed by the Son, marked the new beginning of the resurrection. From John 5:21 we learn that the term “rise” (*egeire*) spoken to the paralytic in v. 8, points to raising of the dead (*egeire tous nekrous*), and moreover the healing itself marks a new beginning.³⁰

Borgen's approach, however, should be pursued further. In what follows, I suggest that the idea of the continuous moral activity of God on the Sabbath may be presupposed also in John 5:8–9, with a parallel in the account of the healing of the man born blind in John 9, and in John 5:14b.

We saw above that N. Walter referred to *Leg.* 1:16–18 as evidence for the exegetical tradition attested by Aristobulus about how the ‘Logos’ as the agent of God and the divine light, whose arrival on the Sabbath came to bring a new beginning to human life. Corresponding to this idea of a new beginning brought about by the Logos is the notion that the healing of the paralytic was instantaneous (cf. εὐθέως in John 5:9), at the word of Jesus. John Painter comments on 5:9: “Just as all things came to be (ἐγένετο) by the λόγος, so now the man became (ἐγένετο) whole at the command of Jesus, 5.9.”³¹ The comparison Painter here makes between Jesus' healing and the creative work of God by the agency of the Logos is supported by the assertion John makes in John 5:17, i.e. that God works on the Sabbath through the agency of Jesus.

Moreover, the implied connection Painter asserts between the Sabbath healing, at Jesus' command (λόγος), and the creative work of God, allows for a comparison with the healing depicted in John 9, in which the effect of Jesus as the divine light, alluded to elsewhere in the gospel (1:4–5, 9; 3:19–21; 12:36–37,

30 Borgen 1987b., 90.

31 Painter 1993, 223.

46), is brought out in the narrative. As in John 5, it emerges that Jesus' healing of the man born blind is performed on the Sabbath (cf. 9:14; the identical expression is used about the Sabbath day as in 5:9) to demonstrate that the works of God were to be made manifest in him (9:3–4). Then, in 9:5 a plain statement of fact is made about Jesus as the "Light for the world". The implication of this reference in the context is that Jesus does his healing work on the Sabbath as the "Light of the World", while he is, as it were, shining. Thus, in the Sabbath healings narrated in John 5 and 9, Jesus is identified with the Logos and with the Light, respectively, which are combined in John 1:9 as a witness to Jesus: "He (λόγος) was the true light (φῶς), which enlightens every man when it enters the world." Hence, the Johannine idea of 'Logos', identified as the Light, may have been combined with the Jewish exegetical tradition of Gen 2:2, and applied to the accounts of Jesus' healings on the Sabbath. Against this background, both the Sabbath healings of the infirm man and of the one born blind might be conceived as an illustration of God's continuous care for his creation, revealed through Jesus as his creative instrument.

According to John 5:14b, Jesus explicitly makes manifest the connection between the instantaneous healing and the resulting moral transformation: "See, you have been made whole! Do not sin any more, so that nothing worse happens to you." The issue of sin and Jesus' admonition to the healed man not to sin again is striking, since nothing has been said about sin in the preceding text. Thus, scholars have found it reasonable that John has incorporated this element of the Gospel tradition in order to express the deeper meaning that he gave to the healing, as a token of the divine activity stated in John 5:17.³² For example, Schnackenburg suggested that the theme of forgiveness of the sins of the paralytic by God is an expression of the continuous work of God and the saving activity made manifest by the carrying out the external, physical cure: "The man is healed and at the same time forgiven by God for his sin. This is what Jesus means by the statement: 'My Father is working still' (verse 17). The will of the Father that the man should be forgiven also obliges the Son (who knows this) to 'work'."³³ This observation of an ethical meaning inherent in John 5:17 should be pursued further. My suggestion that an ambiguous ethical aspect of the Sabbath might lie behind John 5:14b may shed light on the symbolic meaning of the healing of the paralytic: The arrival of the Sabbath upon the infirm man means that his past life, contrary to the new experience of being

32 Lindars 1972, 217; Pancaro 1975, 12–13; Lincoln 2005, 196.

33 Schnackenburg 1980, 2.97.

made whole, i.e. being in a state of illness and incompleteness, has come to an powerful full stop. In that case, the grammatical construction *μηκέτι ἀμάρτανε*, a present imperative prohibition, was another powerful command on the part of Jesus, corresponding to the command of the healing in v. 8, which signified that the past sins integral to the illness of the infirm had also come to an determined end. Again, Lindars has made the point well when he remarks: “There is no word of blame for the past, but only a concern for the future: the man must take his newly gained health as a spur to strive to live well.”³⁴ To sum up, John 5:14b may be another actualization of an interpreted Gen 2:2–3 and the ambiguous ethical meaning of the Sabbath, viz. that whenever the providential activity of God creates an opportunity for a new start in someone’s life, the past with all its mortal and moral aspects comes to a determined stop.

4. An implication of Philo’s exposition of Gen 2:2–3 LXX about God’s continuous creative work on the Sabbath was that the creation was not completed. The formation of the mortal parts of the creation ceased on the advent of the Sabbath, but not, however, “the creating of other things, since He is not a mere artificer, but also father of the things that are coming into being” (*Leg.* 1:18). Correspondingly, the statement “My father is working until now” (John 5:17) would have been perceived by the ‘Jews’ and the perceptive reader as a reference to God’s continuous creation on the Sabbath. Likewise, the emphasis on God’s continuous creation “until now”, including God’s work on the Sabbath, implies that the creation is not complete. Moreover, Jesus’ offer to the infirm man to make him whole (*ὕγιής*) shows that the creation is not completed, and thus not whole. The term *ὕγιής*, which occurs six times in John, always referring to the infirm, emphasizes the meaning of becoming whole, rather than restored, which implies the aspect of incompleteness. Jesus words in John 7:23 (*ἐμοὶ χολᾷτε ὅτι ἕλον ἄνθρωπον ὑγιῆ ἐποίησα ἐν σαββάτῳ*; “are you angry with me because I healed a man’s whole body on the sabbath?”), recalling this same incident of healing, confirm this understanding of *ὕγιής*, which is taken to mean “whole”. In this way, John sees the healing of the paralytic as a guarantee that Jesus had not broken the Sabbath regulations; his healing had taken place with a view to sharing in God’s action to make the creation whole. A similar perspective on the signs performed by Jesus as miracles seen as new acts of creation is apparent also in John 4:34 (“My food is to do the will of him who sent me and to complete his work [*τελειώσω αὐτοῦ τὸ ἔργον*]”) and 5:36 (“The works

34 Lindars 1972, 217.

that the Father has given me to complete [τελειώσω], the very works [αὐτὰ τὰ ἔργα] that I am doing, testify on my behalf that the Father has sent me").³⁵

5. As I have suggested in the preceding analysis, distinctive features of the Gospel traditions inherent in the account of the healing of the infirm man seem to have been coloured by a Jewish expository tradition based on Gen 2:2–3. The result of this amalgam of traditions from various backgrounds serves to emphasize and typify Jesus' actions or characterize the state of the paralytic in a way that is meant to illustrate God's continuous work on the Sabbath. The distinctive reference to the Sabbath in 5:9b as the date of the healing may be another feature with a similar function. Most scholars consider the reference to the Sabbath as an afterthought inserted as a narrative link to the following Sabbath controversy.³⁶ However, the function of the Sabbath, not only as a temporal indicator, but also as a theological signal on the level of the author and the reader, seems to be involved at this juncture in the context of 5:1–18. As a theological motif, the Sabbath bears witness to the continuous activity of the creator through his agent, the historical person Jesus of Nazareth. Thus, the Sabbath festival as part of the Law of Moses testifies to Jesus' divinity (cf. 5:39), whose work, displayed in the healing of the paralytic, is a piece of God's continuous creation. In the next section, we shall see that John intends to defend Jesus' claim to be the divine Son of God against the accusations of blasphemy, on the basis of the divine precedent that is implied in another part of the Scripture.

3 The Legal Precedent for Jesus as Son of God: Ps 82:6 in John 10:34–36

Although the argument in John 10 differs from that in John 5, one specific understanding underlies both texts, viz. that when a halakhic principle is applied on the divine level and transferred to Jesus, the charge of blasphemy on the part of Jesus is invalidated. Thus, John 10 follows the same literary strategy as in John 5: In both passages, we have the ironic situation that the accusation on the part of the Jews, namely, that Jesus claims for himself a divine prerogative,

35 On the Johannine signs of Jesus as seen from the perspective of a new creation, cf. Painter 2002, 77; 2008, 40–42; Brown 2010, 287–288.

36 See, e.g., Haenchen 1959, 46–50; Bultmann 1971, 239 n. 2; Dodd 1963, 174–180; Fortna 1970, 48–54.

is precisely the truth that John wishes to assert. Whereas John 5:17 transfers to Jesus the 'divine Halakha' that God never ceases working, I shall suggest that John 10:30–38 applies the juridical concept of a divine agency to Jesus as the main argument for his divinity. I shall argue that this issue of divine agency is the hermeneutical key to explain the argumentative application of Ps 82:6 in John 10:34–36. This assumption presupposes two questions which need to be answered. First, how can Ps 82:6 function as a scriptural precedent and legal documentation for the assertion that the crucified criminal and human being Jesus can rightly claim to be the 'Son of God', and thus contribute to the refutation of the charge of blasphemy in the context of John 10:30–38? Second, where do we find clues that the halakhic principle of agency is applied to the divine level within the literary context of John 10:30–38?

3.1 *The Literary Context*

The words of Jesus in Joh 10:34–36, which includes the quotation of Ps 82:6, belong to the larger section Joh 10:22–39, in which John recounts a controversy between Jesus and the Jews during the feast of Dedication in the Temple (Joh 10:22–23). It is a widespread scholarly opinion that this narrative is a Johannine composition in its style, vocabulary and theological motifs.³⁷ In the first part, 10:22–31, the Jews interrogate Jesus about whether he is the Christ (v. 23). Jesus' answer refers to his words and works (v. 25), before he goes on to affirm that the Jews do not believe, because they do not belong to his sheep. The answer ends with the statement asserting the unity between himself and the Father (10:25–30). The Jews then pick up stones in order to stone him for blasphemy (v. 31). The second part, 10:32–39, follows an outline parallel to the first section. Again, Jesus refers to his works as "good" and as coming from God (v. 32). The Jews reply that they do not reject him for his good works, but for his claim of making himself God, although he is a human being (v. 33). At this juncture, Jesus retorts with a quotation of Ps 82:6, followed by his own explication of it:

ἀπεκρίθη αὐτοῖς [ὁ] Ἰησοῦς· οὐκ ἔστιν γεγραμμένον ἐν τῷ νόμῳ ὑμῶν ὅτι ἐγὼ εἶπα· θεοί ἐστε; εἰ ἐκείνους εἶπεν θεοὺς πρὸς οὓς ὁ λόγος τοῦ θεοῦ ἐγένετο, καὶ οὐ δύναται λυθῆναι ἡ γραφή, ὃν ὁ πατὴρ ἡγάσεν καὶ ἀπέστειλεν εἰς τὸν κόσμον ὑμεῖς λέγετε ὅτι βλασφημεῖς, ὅτι εἶπον· υἱὸς τοῦ θεοῦ εἰμι;

37 Menken 1997b., 370.

Jesus answered, “Is it not written in your law, ‘I said, you are gods’? If those to whom the word of God came were called “gods”—and the scripture cannot be annulled—can you say that the one whom the Father has sanctified and sent into the world is blaspheming because I said, ‘I am God’s Son’?”?

10:34–36

Finally, Jesus refers to his deeds anew. The Jews react by trying to seize him, but Jesus escapes (10:37–39).

3.2 *A Brief Note on the Interpretation of Ps 82:6 in Jewish Tradition*

A brief review of the understanding of Ps 82:6 in its Johannine context shows that its interpretation has been disputed. First, scholars struggle to see the logic in the argument used by Ps 82:6. Thus, some commentators find the attempts to make sense of the quotation of Ps 82:6 in John 10:34 so far-fetched that they term the argumentative logic in John 10:34–36 naïve³⁸ or fallacious.³⁹ It has also been called a parody on Jewish interpretation of Scripture.⁴⁰ In the explanatory clause attached to Ps 86:2, John identifies those who are addressed as “gods” in the psalm as ‘those to whom the Word of God came’ (John 10:35). This identification, which goes beyond the scriptural text itself, seems to indicate an application of this Scripture to a certain kind of Jewish tradition. Scholars have suggested various kinds of traditions behind these referents. In the context of John 10:32–39 it seems clear that if the scriptural reference to Ps 82:6 is to make sense, it must pertain to the accusation against Jesus that he, ‘though only a human being’, is making himself ‘equal to God’.⁴¹ Against this background, the identification of the “gods” who are addressed in the quotation as heavenly beings or angels seems not to meet the criteria that the Scripture must apply to human beings.⁴²

As to the reference of “gods” to humans, three basic types of explanations have been offered:

³⁸ Barrett 1978, 385.

³⁹ Bultmann 1971, 389.

⁴⁰ Strathmann 1963, 170–171.

⁴¹ Thus, Menken 1997b., 375.

⁴² Some scholars have sought to interpret Ps 82:6 as referring to the angels on the basis of Ps 82:1, or to other heavenly beings, such as Melchizedek, based on 11QMelch. Cf. Emerton 1960, 329–332; 1966, 399–401.

(1) One explanation is that the “gods” refers to Israel’s judges. This explanation, which centers on Ps 82:1–4, is to be found in the rabbinic literature (see *b. Ber.* 6a; *b. Sota* 47b; *b. Sanh.* 6b; 7a; *Tg. Ps.* 82; *Midr. Ps.* 82).⁴³ Such an explanation has been rejected, on two grounds: it seems not to fit the context in John well, since those who are identified as “gods” are further identified as “those to whom the word of God came” in John 10:35. Moreover, judges were not typical recipients of the word of God.⁴⁴

(2) Another type of explanation has been proposed by M.J.J. Menken, who refers the words “You are gods” and the identification of “those to whom the word of God came” to individuals who received a special divine revelation, especially prophets (such as Jer 1:1–10) or individuals who have heavenly visions as part of heavenly ascents. ¹*Enoch* 14:5–8, ²*Enoch* 3–21, and Philo (*Mos.* 1:158; *Spec.* 1:37–50, 207; *QE* 2:29, 40; 4:130; *Opif.* 69–71) have been taken as evidence for this view. Two objections against this view have most recently been posed by J. Beutler:

Die Schwäche dieser Argumentation liegt zum einen darin, dass die hier herangezogenen Texte über die Aufnahme von Propheten und Sehern in die Welt der Himmlischen nicht auf Ps 82 zurückgreifen, zum andern darin, dass es schwierig erscheint, das Argument Jesu von einer Gruppe in Israel her zu verstehen.⁴⁵

(3) The third type of explanation, supported by most scholars, is a rabbinic interpretation which applies Ps 82:6–7 to Israel when they accepted the law at Mount Sinai.⁴⁶ According to this interpretation, Israel experienced, when they received the Torah a recreation, analogous to the creation of Adam: The obedience, holiness, and immortality of Adam were restored and given to Israel.⁴⁷ But after having sinned by worshipping the golden calf, Ps 82:7 applied to the Israelites: “Nevertheless, you shall die like mortals, and fall like any prince.” Even if it is a problem regarding the rabbinic types of interpretations that we cannot be certain that they were current towards the end of the first

⁴³ Brown (1966, 1.409) regards this interpretation as possible.

⁴⁴ So Menken 1997b., 374–375; Beutler 2012, 132.

⁴⁵ Beutler 2012, 132–133.

⁴⁶ See e.g., Barrett 1978, 384; Neyrey 1989, 647–663; Hengel 1989a., 249–288; Dahl 1997, 147–167.

⁴⁷ Cf. e.g. *Mekilta de-Rabbi Ishmael, Bahodesh* 9 on Exod 20:19; *b. ‘Abod. Zar.* 5a.

century CE, the strength of this tradition is that the identification of “those to whom the word came” corresponds to Israel who received the Law at Mount Sinai.

3.3 *A Fresh Proposal for an Interpretation of Ps 82:6 in John 10:34–36*

If we presuppose an argument which goes *a minori ad majus*, the *tertium comparationis* between the interpretative use of Ps 82:6 and the argument for Jesus as the Son of God needs to be reflected in the Johannine text.⁴⁸ Hence, scholars struggle to detect the connection, if any, between the humans who were called “gods” when they received the word of God and the characterizations of Jesus in the immediate context of the argument.⁴⁹

The point of departure for my reading of John 10:34–36 is an interpretation of Ps 82:6 in John 10:35 posed by A.T. Hanson.⁵⁰ His proposal was that John 10:35 alludes to the pre-existent Logos, who addressed Israel at Sinai, and is now incarnate in Jesus. The *a fortiori* argument then goes like this: “If to be addressed by the pre-existent Word justifies men being called Gods, far more are we justified in applying the title “Son of God” to the human bearer of the pre-existent Word.”⁵¹ Objections to this explanation have been raised. Thus, R. Schnackenburg objected that the argument would clash with the rabbinic conclusion *a fortiori*.⁵² Moreover, the idea that the “Word of God” in person has spoken to the Israelites has been criticized on the ground that it does not sufficiently explain the point of comparison. Thus, one has asked: where in John 10 is Jesus claimed to be, or even alluded to as, the Word of God incarnate?⁵³ Most recently, Menken has argued against this explanation as follows: “However, John does not dwell on activities of the Logos between creation and incarnation, and when he has Jesus speak about his ‘existence’ before the incarnation, he has him use the first person (e.g., 3,11; 8,26.38), not the title of Logos. John does not know of a Logos, who is to a certain degree independent of Jesus.”

In what follows, I shall suggest that the aspect of Logos as the agent of God should be emphasized and brought more into the discussion as the main *tertium comparationis*. Against the background of Philonic data, it is my sug-

48 Schnackenburg 1980, 2.312.

49 For a survey of recent scholarship, cf. Sheridan 2012, 196–213.

50 Hanson 1964–1965, 158–162; 1966–1967, 363–367.

51 Hanson 1991, 146.

52 Schnackenburg 1980, 2.312.

53 Cf. Ridderbos 1997, 374.

gestion that the interpretation of Ps. 82:6 in John 10:35 alludes to a Jewish idea about the Logos as the heavenly agent of God, which corresponds to the many references to Jesus as the divine agent of God in John 10:22–39. Thus, unlike Hanson, I do not argue that the point of comparison is the relationship between the pre-incarnate Logos and Jesus as the incarnate Logos. If this was the case, I concur with the objections raised against Hanson's interpretation. In my view, the greater case in John's scriptural argument *a fortiori* is that Jesus as 'Son of God' stands in an incomparably closer relationship to God than those addressed in the psalm in question as 'gods', because of the contrast which can be made between **those to whom** the divine agent of the Logos came and **the one as whom** the heavenly consecrated agent of God was sent to the world. Some observations on John 10:30–38 in the light of the tradition of agency in Philo and the use of the Logos concept elsewhere in John will support this suggested interpretation of John 10:35.

In his study of the Jewish halakhic principles of agency as the background to aspects of the Johannine 'agency Christology', Borgen contends that the judicial notion of shaliach does not explain "the fact that Jesus according to John is not just a human and earthly agent but a divine and heavenly agent who has come down among men."⁵⁴ However, Borgen has most recently supplemented his earlier essay on the halakhic principles of agency in rabbinic writings (originally published in 1968) by pointing to similarities in Philo's writings.⁵⁵ He has shown manifest how Philo applies ideas of agency both to human envoys and on the spiritual and divine level, respectively. On a human level, Philo illustrates how the halakhic principles of agency reflect the conventions of agency and diplomacy in the Greco-Roman world.⁵⁶ Thus, as the leader of the delegation representing the Alexandrian Jewish community to Emperor Gaius Caligula, Philo states in general the relation between the envoys and those who have sent them: "the suffering of envoys (πρέσβεις) recoils on those who have sent him" (*Legat.* 369).⁵⁷ In this connection, he uses the Greek technical terms πρέσβυς and πρεσβευτής for the human envoys. The latter term πρεσβευτής is used in the paragraph next to the one just quoted from *De Legatione ad Gaium*: "Surely it was a cruel situation that the fate of all the Jews everywhere should rest precari-

54 Borgen 1987a., 177.

55 See Borgen 1996b., 98–123; 2003, 45–76; 2014, 193–218.

56 On the correspondence between Greco-Roman conventions on diplomacy and envoys and halakhic principles of agency, see Mitchell 1992, 641–662.

57 Philo here drew on the principle that "an agent is like the one who sent him"; cf. e.g. *Mek. Exod.* 12:3 and 6; *m. Ber.* 5:5; *b. Metzia* 96a.

ously on us five envoys (πρεσβευταῖς) (§ 370).⁵⁸ The term πρεσβευτής can also be used by Philo about angels as mediators between humans and God. Angels are described as “the servitors and lieutenants of the primal God whom he employs as ambassadors (πρεσβευτῶν) to announce the predictions which he wills to make to our race” (*Abr.* 115).⁵⁹ On the divine level, Philo applies the idea of an envoy to the Logos as ambassador from the heavenly God and King to human beings on earth. The Word/Logos acts as a mediator between the human race and God and as envoy of God to his subjects: “This same Logos both pleads with the immortal as suppliant for afflicted mortality and acts as ambassador (πρεσβευτής) of the ruler to the subject” (*Her.* 205). Thus, Philo affirms the use of the rules of agency within a first-century Jewish environment that might serve as a cultural context for my suggestion that John 10:35 alludes to the concept of Logos as an agent and intermediary between humans and God. The following observations on John 10:35 in its Johannine context will corroborate this view.

- (1) A mediating role of the Logos between those who are called “gods” and God seems to be evident from the emphatic use of the genitive τοῦ θεοῦ in the reference to Logos (ὁ λόγος τοῦ θεοῦ). Likewise, in the Prologue, the creation of all things by the Logos comes about through the relationship of the Logos to God (John 1:1–3). Furthermore, it seems likely that to an attentive reader, the words ὁ λόγος [...] ἐγένετο in v. 35 would have evoked the phrase ὁ λόγος σὰρξ ἐγένετο in John 1:14.
- (2) My interpretation of John 10:35 is further supported by the way John elaborates here on the concepts of God as the sender and Jesus, the agent to humans, as the one who is sent. In doing this, John draws upon the halakhic principle that an agent is a person who is identical with his sender, not only in his authority and function, but also in his qualities.⁶⁰ The familial relationship and identity between the Son and the Father is referred to in a corresponding way by the following formulae: “I and the Father are one” (John 10:30); “the Father is in me and I am in the Father” (John 10:38). Correspondingly, the personal oneness between the agent and his sender finds expression in John 10:37–38 in Jesus’ words, which are said to be “the works of the Father”. The language of the works of

58 Compare also Philo, *Flacc.* 97, 98, and *Legat.* 182.

59 The same basic rule of agency lies behind Paul’s description of his meeting with the Galatians, when they saw his role to be that of an angel representing God or Christ Jesus himself: “[...] you [...] received me as an angel of God, as Christ Jesus” (Gal 4:14).

60 Cf. Borgen 1987a., 172–173.

the Father, to be imitated by the Son, and his agency form thus a unity. In a corresponding way, Philo in *Conf.* 62–63 uses the imagery of “the Incorporeal Son” (= the ‘Logos’), who “followed the ways of his Father, and shaped the different kinds, looking to the archetypal patterns which the Father supplied.” In John 10:30–38, the principle of agency is applied to Jesus as the Son who is sent by his (heavenly) Father; he is the one “whom the Father sanctified and sent into the world” (10:36). At this juncture, the notion of being sent by the Father *into the world* like a Son refers not merely to a human agent, but to one who comes from the divine realm and is sent into the world. Menken is right in his observation that when John has Jesus speak about his pre-incarnational existence, he does not use the title ‘Logos’. In the Johannine context, the statement in 10:36 at least implies Jesus’ pre-existence with God as Son, who is, as such, identical with the role of ‘Logos’.

- (3) The appearance of the Logos at Sinai seems to be presupposed by John. In John 1:14, which mentions the Logos for the first time since v. 1, the relationship between the Logos and God is thought of as that between a son and a father. Hence, the appearance of the Logos is seen as a revelation of the glory of the Father. At some points, John 1:14–18 draws on the theophany at Sinai applied to the Logos, so that we can almost speak of a ‘Logos-epiphany’. In the first place, the statement in John 1:14, “And the Word became flesh and lived among us, and we have seen his glory, the glory as of a father’s only son, full of grace and truth”, recalls Moses’ request that God should let him see his glory in Exod 33:18: “Moses said: ‘I pray thee, show me thy glory.’” Since Moses did see a manifestation of God’s glory at Sinai, “abounding in steadfast love and faithfulness” (Exod 33:18–19, 22; 34:5–6), John 1:14 seems to presuppose that it was the glory of the ‘Logos’ Moses saw. This suggestion is supported by Philo, *Leg.* 3:100 and John 1:17–18. In his interpretation of Exod 33:18, Philo calls Moses’ vision an apprehending of God from himself, which he specifies as a vision of God’s “Logos”: “[...] but lifting its eyes above and beyond creation obtains a clear vision of the uncreated One, so as from Him to apprehend both Himself and His shadow. To apprehend that was, we saw, to apprehend both the “Word” and this world (ὅπερ ἦν τὸν τε λόγον καὶ τόνδε τὸν κόσμον).” Moreover, at Sinai, Moses saw only a manifestation of God’s glory, because he was not allowed to behold God directly, whom no one has ever seen, Exod 33:20. This scripture, which is alluded to in John 1:18, makes clear that the Logos, as the Son, or even God, who is in the bosom of the Father, made him known. Here the word θεός in John 1:18 refers back to John 1:1 and to the identification of the Logos with God: “In the beginning

was the Word, and the Word was with God, and the Word was God.” Moreover, the notion in John 5:46 that Moses wrote about Jesus also seems to presuppose the epiphany of the Logos before Moses at Sinai. In this way, John 1:17 may allude to the distinction between the law and Moses’ preview of the Logos at Sinai, representing the reality of grace and truth of which Moses wrote, and who became visible through Jesus Christ, the incarnation of the only-begotten Son (cf. Philo, *Conf.* 146, where we read about God’s First-born = “Logos”) (John 1:18). These possible allusions to the pre-incarnational appearance of the Logos at Sinai may help to indicate that John, nevertheless, dwells on the role of the Logos between creation and incarnation. John 1:14–18 seems then to support the view that 10:35 refers to the appearance of the Logos when Israel received the Law.

To summarize: These observations about John 10:30–38 suggest that there is an argumentative connection between the exegesis of Ps 82:6, alluding in v. 35 to the idea of the Logos as the divine agent at the Sinai event, and the many references to Jesus as the divine agent-Son of God in the literary context of John 10:30–38.

Moreover, the exposition of Ps 82:6 within the framework of the halakhic principle of divine agency fits well with the juridical aspects of a ‘legal controversy’ between Jesus and the Jews, which includes the halakhic reasoning *a minori ad majus*, and the appeal to the case of a binding precedent in divine law (cf. the introduction of Ps 82:6 as “your law” and the reference to the Scripture that cannot be annulled) on which the decision of a subsequent similar case is based. As I read the halakhic reasoning of John 10:34–36 as an argument *a minori ad majus*, its meaning can be paraphrased as follows: The divine agency of Jesus as the Son of God is supported and attested by a case of binding divine precedent attested in the Law, such as it presents itself to the Jews in their interpretation of Ps 82:6: If the appellation “gods” was mediated to human beings through the intermediary and agent of God, the Logos, then how much more is “Son of God” a permissible title for Jesus, who himself was “sanctified and sent into the world” as the agent of the (heavenly) Father. If this is the case, the charge of blasphemy on the part of the ‘Jews’ was invalid and must be refuted.

4 Summary

The observations made in this chapter can be summarized in the following points:

1. According to John, the accusations levelled against Jesus on the basis of the jurisdiction of an earthly Halakha may be given a contrasted meaning when seen from the perspective of a divine judicial authority and within the framework of a 'divine Halakha'. Since Jesus, as a human being, was seen as the heavenly agent of God, he could perform the divine activities on the Sabbath and claim the status of being the Son of God without being charged with such crimes as breaking the Sabbath and blasphemy.
2. In the first part of the chapter, I discussed John's use of a widespread Jewish exegetical tradition based on Gen 2:2–3 about God's continuous work on the Sabbath in terms of Jesus' divine work and providence on the Sabbath in John 5:1–18. Thus, the charges against Jesus as violating the Sabbath regulations and blasphemy were turned inside out: Jesus' healing of the infirm man in Jerusalem on the day of the Sabbath demonstrated that he was the Son of God, who shared in his Father's divine prerogative to work on the Sabbath, and thus showed himself to be "equal to God" (5:18).
3. Another aspect of the interpretative use of Gen 2:2–3 LXX was that created beings are inactive and dependent on God in their doings. A similar line of thought seems to be presupposed in John 5, where it is applied to the healing of the infirm man who was inactive and dependent on Jesus, even in the carrying of the mat on the Sabbath. The infirm man was made whole and carried his mat, because Jesus told him to do so (5:8–9). Corresponding to the idea of a new beginning brought about by the Logos at the dawn of the Sabbath was the notion that the healing of the paralytic was instantaneous at the word of Jesus: Just as all the creation once came to be by the agency of the λόγος, so now the man became whole at the command of Jesus, 5.9. Against this background, the Sabbath healing of the infirm man can be seen as an illustration of God's continuous care for his creation, revealed through Jesus as his creative instrument. Thus, the accusation that Jesus' command was illicit and the one who issued it a lawbreaker, was given an opposite meaning; Jesus was not a Sabbath breaker, but rather one who was in the position to act in the role of God on the Sabbath (5:17–18).

4. One implication of Jewish exposition of Gen 2:2–3 LXX was the view that the creation was not yet completed, and that God therefore had still work to finish on the Sabbath. In a corresponding way, the emphasis on God's continuous creation "until now" in John 5:17, including the Sabbath, implied that the creation was not complete. Against this background, Jesus' offer to the infirm man to make him whole (ὑγιής) can be interpreted within the framework of the idea of the completion of God's work on the Sabbath.

5. Another distinct feature of the Jewish exposition of Gen 2:2–3 was the ambiguous meaning ascribed to the Sabbath, viz. that it both marked an end to something and made manifest a new start. Correspondingly, John 5:14b may be an echo of the ambiguous ethical meaning of the Sabbath, viz. that whenever the providential activity of God creates an opportunity of a new start in a man's life, the past with all its mortal and moral aspects comes to a definite stop. In that case, the admonition not to sin was an expression of another command on the part of Jesus, corresponding to the command of healing in v. 8, which signified that the past sins integral to the illness of the infirm man had also come to an definite end.

7. In the second part of the chapter, I argued that the interpretation of Ps 82:6 in John 10:35 can be explained in the light of a Jewish idea about the 'Logos' as the heavenly agent of God, attested by Philo, which corresponds to the many references to Jesus as the divine agent of God in John 10:22–39. The *tertium comparationis* in John's scriptural argument *a fortiori* is that Jesus as 'Son of God' stands in an incomparably closer relationship to God than those addressed in the Psalm as 'gods', because of the contrast which can be made between **those to whom** the divine agent of the 'Logos' came and **the one as whom** the heavenly consecrated agent of God was sent to the world.

8. This interpretation of John 10:35 is supported by the way John elaborates in the immediate context the concepts of agency, drawing upon the halakhic principle that an agent is a person who is identical with his sender, not only in his authority and function, but also in his qualities. In John 10:30–38, this halakhic principle of agency was applied to a divine level, about Jesus who came from the divine realm and was sent into the world.

9. According to John, the binding divine precedent of the Law had relevance and should be appropriated to resolve the judicial controversy centred on the question of whether Jesus as a human being made himself "God": If the appellation "gods" was mediated to Israel at Mount Sinai when they received

the Logos of God (Ps 82:6), then, how much more was “Son of God” a permissible epithet for Jesus, who himself was “sanctified and sent into the world” as the agent of the (heavenly) Father as a human being. If this was the case, the charge of blasphemy on the part of the ‘Jews’ was invalid and must be refuted.

PART 3

*The Theme of Jesus' Kingship in Negotiation
with Jewish Hopes and the Roman Empire*



The Divine Lawsuit Motif in John in the Light of Philo's Treatise *De Iosepho*

1 Thesis

As I have discussed in chapter two, the repeated attempts to kill or arrest Jesus lead ultimately to an official decision by the Roman authorities to put Jesus to death. The impression of a growing hostile disposition against Jesus has been built up in the course of the narrative of Jesus' public ministry. In chapter three, I suggested that the arrest, investigation and examination of Jesus before the Jewish authorities and their subsequent referral of the case to the Roman governor for a trial followed the judicial proceedings of the Greco-Roman administration attested by the Egyptian papyri. In chapters four and five, I have investigated aspects of the human and divine levels inherent in the lawsuit between Jesus and the 'Jews' in the Johannine narrative.

The aim of this chapter is to develop this study by looking into some other facets of the divine lawsuit motif in John within its cultural context. Bringing the account of God's reversal of the conspiracy against Joseph in Philo's *De Iosepho* to bear as a lens, we shall examine the plot to kill Jesus within the literary structure of John from a corresponding legal perspective of a divine lawsuit.

I shall take my lead from M.W.G. Stibbe's recent study of the deep structure of John's plot.¹ Applying Greimas' actantial model of narrative as a grid, Stibbe suggests that John actually has two plots, a main plot, "Jesus' quest to do the work of the Father," and a counter-plot, "the quest of the Jews to destroy Jesus."² In the main plot, the Father is the *sender*, who sends Jesus as agent (the *subject*) to complete the mission of bringing life to the children of God (the *object*). The counterplot is at the same time a plot in a non-literary sense and can be conceived as a 'conspiracy': "The conspiracy to put the Giver of Life to death is the counter-plot in the fourth gospel."³ The counter-plot is a satirical parody of the main plot. The *sender* is the Devil, who sends the 'Jews' as the

1 Stibbe 1994, 38–53.

2 Stibbe 1994, 47.

3 Stibbe 1994, 47.

opponents to kill Jesus. Thus, paradoxically, the evil forces of evil displayed in the counter-plot are at the same time both *helpers* and *opponents*, who overreach their purposes and “contribute towards God’s eternal plan.” In order to defend this reading of John’s plots against the accusation “of overingenuity, of the worst kind of literary-critical eisegesis”, Stibbe maintained that the ironic *peripeteia* (reversal of fortune) is not uncharacteristic of ancient Jewish storytelling.⁴ In support of this claim, Stibbe referred to an essay by the French structuralist R. Barthes, who had applied the same actantial model of Greimas to an analysis of Gen 32:22–32.⁵ Stibbes’ analysis of the deep structure of the plots involved in John’s gospel should be developed by searching for analogies in other relevant Jewish or Greco-Roman sources.

Without utilizing Greimas’ actantial model and terminology, I shall suggest that Philo’s treatise *De Iosepho* provides a relevant Jewish analogy to John’s way of dramatizing the story of Jesus within the literary context of the genre of a Hellenistic biography. My thesis is that Philo’s *De Iosepho* and John’s Gospel both dramatize how a ‘conspiracy’ against the idealized protagonist is interpreted as a creative theodicy, in which the antagonists are seen to contribute toward the realization of God’s plan. Drawing on elements from the literary genre of a political *bios*⁶ and the ideology of Hellenistic kingship, both authors envisage a ‘conspiracy’ against Joseph and Jesus respectively, which, in the light of God’s predetermined will, brings about their elevation to kingship, which in turn provides an abundance of life and blessings to their own people and other peoples. Moreover, in both *De Iosepho* and John the ‘conspiracy’ has been reversed and given a contrasted meaning, so that the antagonists are themselves set under divine investigation and threatened with downfall. Without knowing the outcome, the antagonists therefore are seen to have contributed to the realization of God’s providence and love for human beings.

A presupposition of this study is that Philo’s *De Iosepho* tells us something of the cultural foils and horizon of expectations behind the Johannine text,

4 Stibbe 1994, 46.

5 Cf. Stibbe’s description of Barthes’ observations: “Using Greimas’ terminology, he showed how God is the Sender in the story, and Jacob the Receiver. The commission is for Jacob to be reconciled with Esau. This in turn is Jacob’s quest. Barthes argued that the Helper of this quest is God. The key thing for Barthes, however, is the fact that the opponent is none other than God himself. The one who wrestles with Jacob is God; the Sender and the opponent are one and the same” (Stibbe 1994, 46). According to Stibbe, this is an analogy to the manner John depicts the Jews as both the Opponents and Helpers of Jesus.

6 R.A. Burridge (2004, 213–232) has compared the gospels with Graeco-Roman biographies, and concludes that John shares a similar range of topics to that found in Graeco-Roman *bioi*.

consisting of common elements from political biography, Hellenistic kingship ideology, and judicial motifs. Thus, as a literary work, the Johannine text does not make its appearance in an informational vacuum, but predisposes its readers to a certain type of reception by means of textual strategies, overt and covert signals, familiar characteristics or typical expectations and probabilities, indicating a 'horizon' behind the text. Such a cultural 'horizon' or context might create another reader's expectations which tuned them in a special mode for the discerning reader or listener, and guided his structuring and choice between potential shades of meaning in the ongoing communication.⁷

The course of this chapter will be as follows: First, some key conceptual points will be highlighted with regard to the conspiracy against Joseph as this is amplified by Philo in the treatise *De Iosepho*, supplemented by other relevant Greek and Jewish texts. Then, against such a 'horizon' or background, some observations will be made on the divine reversal motif of the plot to kill Jesus in the Johannine narrative. Finally, the chapter will be rounded off with some concluding remarks.

2 Key Conceptual Points in Philo, *De Iosepho*

De Iosepho belongs to the set of treatises called the *Expositions of the Law*, in which Philo rewrites large part of the Pentateuch, including the stories about the Patriarchs.⁸ In his characterization of the genre of "Rewritten Bible", P.S. Alexander claims that its framework is an account of events that may be broadly described as histories, and that it differs in general from theological treatises which may serve theological ends. Such a definition seems to be too restrictive, however, since Philo's rewritten stories in the *Exposition* can include explicit philosophical and theological aims, in which Jewish and Greek ideas are fused together. An example of theologically interpreted history is *De Iosepho*, which to a large extent interprets parts of the biblical account of the story of Joseph in Genesis 37–47. Philo introduces his treatise on Joseph as βίος τοῦ πολιτικοῦ, which means that he adapts the Joseph story to the framework of Greco-Roman political biography.⁹ Thus, elements from the genre of an ancient political biography are included, such as details concerning Joseph's early training and career. There are also records of events of Joseph's life from

⁷ See e.g. Hirsch 1967, 222–223; Hartman 1979, 153 n. 4.

⁸ Alexander 1988, 16; Borgen 1997, 63–65.

⁹ See Niehoff 1992, 54–60; 2011, 16–21; Phenix 2008, 113.

the biblical account, such as Joseph's dream, his being sold to merchants, who in turn sell him as a slave to Potiphar, his imprisonment, his expositions of dreams and his subsequent release and exaltation as viceroy of the Egyptian king, the story of his brothers and his father, and finally his death (*Ios.* 1–27, 37–53, 80–124, 157–270). However, Philo's amplification of the biblical story is interrupted at three junctures in the treatise to offer longer allegorical elaborations on the life of the statesman which go beyond the literal meaning of the text. Thus, the greater part of the treatise is devoted to portray Joseph as an ideal statesman in terms of the disposition of the ideal Hellenistic king. As E.R. Goodenough has pointed out, Philo has rewritten the biblical account in the light of Hellenistic ideas of kingship.¹⁰ In what follows, I shall give a brief outline of the literary structure and conceptual framework of the biography of Joseph, in which Philo rewrites the various aspects of the conspiracy against Joseph within the framework of Hellenistic political thinking and ideals.

The emphasis on Joseph's early training as a shepherd in *Ios.* 2 supports the affirmation that "Philo portrays Joseph's youth in conformity with his own standards of a 'political biography'":¹¹

This training was first given to him at about the age of seventeen by the lore of the shepherd's craft, which corresponds closely to the lore of statesmanship. And therefore I think the order of poets often speaks of kings (βασιλεις) as shepherds of peoples (ποιμένας λαών), for success in shepherding will produce the best king, since through the charge of flocks which deserve less thought and care he has been taught the charge of the noblest flock of living creatures—mankind.

This paragraph demonstrates that Philo adapts the biblical story of Joseph in two ways. In the first place, Philo identifies the biblical item "shepherd" with the notion of political training and the idea of kingship.¹² Moreover, the reference to "the poets" shows that he relates the notion of shepherding to already known literary ideas. Although he himself does not disclose his literary sources, Philo may have thought of the way the bucolic metaphor was

¹⁰ Goodenough 1938, 42–63.

¹¹ Niehoff 1992, 62.

¹² It is significant that Philo too employs the imagery of a shepherd in his biography of Moses. According to Philo, Moses was trained for his later career and kingship over mankind: "Moses took charge of the sheep and tended them [...] for the shepherd's business is a training-ground and a preliminary exercise in kingship for one who is destined to command the herd of mankind [...]" (*Mos.* 1:60).

a commonplace in the Hellenistic ideology of kingship and political thought that is, for example, reflected in Platonic works.¹³ Thus, already at the outset of the biography, the readers could be expected to adjust the biblical account of Joseph to current ideas of Hellenistic kingship. According to Goodenough, this treatise is written to remind his Gentile readers that “Egypt had at least once been ideally governed—by a Jew.”¹⁴

A survey of the motif of the ‘plot’ against Joseph by his brothers shows that it appears throughout the literary plot line of the treatise, and hence contributes to the backbone of the internal structure that gives the narrative its shape. The cognates ἐπιβουλή or ἐπιβουλεύω, which mean “conspiracy” or to “plot against” in a hostile manner, often with the intention of killing,¹⁵ are applied in this sense throughout the narrative of *De Iosepho* to depict the hostile conspiracy against Joseph:

Ios. 170: “But they, filled with gloom and depression, began to reproach themselves for their plot (ἐπιβουλή) against their brother.”

Ios. 236: “On all these grounds he was convinced that his mother’s offspring was not looked upon with hostile feelings and was not plotted (ἐπιβουλεύω) against, and also considering what had happened to himself he came to the conclusion that his experiences were probably due not so much to their conspiracy (ἐπιβουλή) as to the providence of God Who beholds distant events and sees the future no less than the present.”

Ios. 248: “but the unfortunate victim of the ruthless conspiracy (ἐπιβουλή) of those who should be the last to treat him so.”

Ios. 250: “in fact the story of their conspiracy (ἐπιβουλή) and selling of him to slavery ...”

Ios. 270: “of these years he spent seventeen in painful misfortunes, being plotted against (ἐπιβουλεύω), sold into slavery, falsely accused, chained in prison ...”

13 Cf. e.g. *Pol.* 261D, 266E, 267D, 275, 365D; *Gorg.* 516A. See also Dio Chrysostom, *Or.* 4:43–45; 11Q05 XXVIII.3–12; *L.A.B.* 19:3,9.

14 Goodenough 1938, 63.

15 Compare *Migr.* 208; *Det.* 45, 69; *Spec.* 3:94, 141, 180, 204.

The backdrop of the plot was the envy that was aroused when the brothers interpreted Joseph's dream and began to fear that he would be their lord and king. In the LXX, envy and (intended) murder come together in the Joseph story. Jacob's special love for Joseph caused dissension (Gen 37:4). After Joseph's dream, ἐζήλωσαν δὲ αὐτὸν οἱ ἀδελφοὶ αὐτοῦ (Gen 37:11), and this led to their plan to kill him (Gen 37:18). In his version of the story, Philo makes the theme of envy explicit.¹⁶ Modifying the biblical account (Gen 37:4), Philo writes:

But envy (φθόνος), which is ever the enemy of high success, in this case too set to work and created division in a household where every part had been happily flourishing, and stirred up the many brothers against the one. They displayed ill will to Joseph as counterpart to his father's good will.

Ios. 5

Since envy is a standard topic in Hellenistic biographies, where it is usually functions as a challenge to the idealized protagonist at the initial stages of his career,¹⁷ we may suggest that this is another reflection of the way in which Philo adapts the story of Joseph's youth to the conventions of the political biography. Again, it is noteworthy that Philo inserts this notion of envy into the biography of Moses, too.¹⁸ In contrast to the envy of his brothers, Joseph is described as flawless in his way of life (*Ios.* 6). Moreover, in *De Iosepho*, the φθόνος created division in the family, and finally led to the plotting of murder, φόνος (§ 12):

Their anger reached such a pitch that they plotted by a majority, though not unanimously, to murder him, and in order to avoid detection they determined to throw his dead body into a very deep pit in the ground (καὶ ἐπὶ τοσοῦτον προήγον ὀργῆς, ὥστε καὶ τὸν ἐπ' αὐτῷ φόνον οὐ πάντες ἀλλ' οἱ πλείους ἐβούλευον καὶ ὑπὲρ τοῦ μὴ καταφωραθῆναι ῥίπτειν ἀνελόντες ἐγνώκεσαν εἰς ὄρυγμα γῆς βαθύτατον).

As the story goes on, only Reuben's exhortation deterred his brothers' envy from committing the crime of murder. Philo tells that Joseph was sold to the merchants, while his brothers sent a false report to their father Jacob that he

16 The motif of envy in the betrayal of Joseph is also recounted by Josephus, *Ant.* 2:10–18 and in Acts 7:9.

17 *SVF* 3:418; Epictetus, *Diatr.* 3.11.2 and 4.5.7. See Milobenski 1964, 118–120; Niehoff 1992, 65.

18 *Mos.* 1:64 claims that Moses is envied for his success in shepherding.

was dead. Following the standards of biography, Philo proceeds subsequently to his early upbringing and training, conceiving Joseph's career as a distinct stage in the life of the politician.¹⁹ Thus, once in Egypt, his master Potiphar, like Jacob, recognized the true character of Joseph. Just as Jacob at the outset had recognized his gifts for rulership, and prepared him for a position as a king by training him as a shepherd (*Ios.* 2–3), so too, Potiphar noted that Joseph in whatever he did or said acted “not without divine wisdom” (*Ios.* 37), and followed divine guidance, or as Goodenough puts it “he had the disposition of the ideal Hellenistic king.”²⁰ By virtue of this fact, Joseph was assigned to the superintendence of Potiphar's household, and hence was being further trained ideally for the duties of “kingship” (*Ios.* 38–39). In reality, Philo adds that Joseph's appointment to rulership was not of human origin, but was due to the nature of the character God had given him. The treatise now goes on to describe Joseph's disposition as a true Hellenistic king in terms of his continence, self-mastery, and self-control (*Ios.* 40–79). In *Ios.* 80–124, the story relates Joseph's life in prison, his interpretation of the dreams and his release and exaltation in a position as a king. We shall highlight some aspects of these incidents in Joseph's life that show how Philo emphasizes his characteristics as those of the ideal king.

In his description of the ideal king, such as in *Spec.* 4:157–158, Philo compares the relationship between the king and the people to that of a physician and his patients, *Spec.* 4:186. Philo depicts Moses as having an ideal king's care for his people, as one who was appointed leader “invested with this office and kingship (*βασιλείαν*), not like some of those who thrust themselves into positions of power by means of arms and engines of war and strength of infantry, cavalry and navy, but on account of his goodness and his nobility of conduct and the universal benevolence which he never failed to shew” (*Mos.* 1:148). This characteristic can be found in a more general way in mirror statements about kings in general, e.g. *Dec.* 40–43.²¹ It is significant that the medical metaphor is also applied to Joseph as a politician in *De Iosepho*:

The physician does not use a single form of treatment for all his patients, nor even for one individual if the physical condition does not remain unaltered, but he watches [...] all the changes of the symptoms and varies

¹⁹ Niehoff 1992, 66.

²⁰ Goodenough 1938, 49.

²¹ Cf. Josephus, *Ant.* 20:52; Polyb. 6.42; 6.6.8; 7.4. See Busse 2006, 299–304, for further references to ancient literature.

his salutary processes sometimes using one kind, sometimes another. And so also the politician must be a man of many sides and many forms.

Ios. 33–34

As for the difference between cooks and physicians, it is a matter of common knowledge. The physician devotes all his energies solely to preparing what is wholesome (τὰ ὑγιεινὰ), even if it is unpalatable, while the cook deals with the pleasant only and has no thought of what is beneficial.

Ios. 62

In *Ios. 34* Philo stresses that the politician thus benefits the whole community, while the image of a physician in *Ios. 62–63* occurs in the context of an allegory on democracy and rule of law. It is also noteworthy that the image of the physician is “a matter of common knowledge” (*Ios. 62*), and hence seems to be within his reader’s ‘horizon of expectations’. Furthermore, the aspect of an ideal king’s care for his people is expressed in the way Philo describes how Joseph in his foresight had stored up an abundance of food against a time of famine:

He first ordered all the stores to be thrown open, thinking that he would thus increase the courage of those who saw them, and, so to speak, fed their souls with comforting hopes before he fed their bodies.

Ios. 162

As for Joseph’s life in prison, the brilliance of the king’s appearance, with a transformative effect on those who behold him, is another aspect of the ideal Hellenistic king that is reflected in Philo’s presentation of Joseph. The influence on Joseph’s fellow prisoners is described in the following way:

In the prison he displayed such a wealth of virtue that even the vilest of the inmates were astounded and overawed, and considered that they had found in him a consolation for misfortunes and a defence against future ills (καὶ παρηγόρημα τῶν συμφορῶν ὑπολαμβάνειν ἀλεξίκακον εὐρηκέναι τὸν ἄνθρωπον).

Ios. 80

Here Philo uses the rare term ἀλεξίκακος, “averted of evil”, the same adjective that he uses to describe Augustus as ideal king, who brought peace to the Empire when it was distracted in civil wars, “so that almost the whole human race would have been destroyed in internecine conflicts and disappeared completely, had it not been for one man, one princeps, Augustus, who deserves

the title of 'Averter of evil' (*Legat.* 144).²² In Greek literature, this term can be applied to the gods Hermes, Zeus, and Heracles and to the king who wards off external evil from his subjects, but also makes an impact on their souls through the goodness of his character.²³ As an illustration of the latter aspect, Goodenough cites from Diotogenes: "For to look at the good king ought to affect the souls of those who see him no less than a flute or harmony."²⁴ In precisely this sense, Joseph shows himself to be an "averted of evil" in prison. Philo changes the story about the jailor to make Joseph's character the cause of the transformation of the jailor's soul, so that he was "tamed by the nobility of the youth" (*Ios.* 85) and turned over the administration of the jail to Joseph. Under his rule, the prison was transformed:

Thus even the place, as they felt, could not rightly be called a prison, but a house of correction. For instead of the tortures and punishments which they used to endure night and day under the lash or in manacles or in every possible affliction, they were rebuked by his wise words and doctrines of philosophy, while the conduct of their teacher effected more than any words. For by setting before them his life of temperance and every virtue, like an original picture of skilled workmanship, he converted even those who seemed to be quite incurable, who as the long-standing distempers of the soul abated reproached themselves for their past and repented with such utterances as these: 'Ah, where in old days was this great blessing which at first we failed to find? See, when it shines on us we behold as in a mirror our misbehavior and are ashamed.'

Ios. 86–87

Towards the end of the treatise, Philo further points out that it was Joseph's eloquence "which secured him the obedience, not forced but voluntary, of every one of his subjects" (*Ios.* 269). Hence, through his appearance and his words, Joseph has a saving power with regard to his surroundings. When he thus depicts Joseph' transformative effect on his subjects, Philo's language once again resembles conventional Hellenistic notions of the ideal king.²⁵

Philo's intention to represent Joseph in terms of the ideology of Hellenistic kingship reaches its culmination when Joseph appears before Pharaoh and is appointed to be ruler of all Egypt under the king. Technically, Joseph is not

22 Translation according to Smallwood 1961, 90.

23 Goodenough 1938, 53.

24 Goodenough 1928, 72.

25 Goodenough 1938, 54; Niehoff 2011, 18–19. Cf. e.g. Cicero, *Rep.* 1.52.

the king, although Philo emphasizes that he is *de facto* the king. While the Septuagint accounts of the appointment only have: “Look, I am appointing you today over all the land of Egypt” (Gen 41:41),²⁶ Philo represents Pharaoh as saying:

Come, then, and take the charge of my house, and the superintendence of all Egypt. [...] He then appointed him viceroy of the kingdom, or rather, if the truth be said, king, reserving indeed to himself the name of the office, but resigning to him the actual sovereignty and doing everything else that might give the young man honor. So, then, he bestowed on him the royal seal and put upon him a sacred robe and a golden necklace, and setting him on his second chariot bade him go the round of the city with a crier walking in front who proclaimed the appointment to those who did not know of it.

Ios. 117–120

The installation of Joseph as king with his royal *insignia* makes it clear that Philo conceived Joseph to be the type of a king. Moreover, as Goodenough argues, when Philo adds the detail that the commission of Joseph as king meant also the supervision of the household of Egypt, Philo saw in Joseph also the type of the Roman prefect with *imperium*, since Egypt was part of the personal estate of the Roman Emperor.²⁷

After a further digression on the allegorical aspects of the royal status ascribed to Joseph, Philo resumes the leading theme of the story, which is the relationship between the protagonist and his brothers. Another royal feature appears when Philo moves on to the story of Joseph’s reunion with his brothers when they came up to Egypt to buy grain. Here, he acts with self-restraint, instead of giving way to the opportunity for revenge (*Ios.* 166). Philo continues to elaborate on how Joseph’s brothers were charged with being spies, and Joseph required that they should leave one of their number as a surety before departing to fetch their youngest brother as a proof of good faith. In this situation, after having been threatened with death if they did not comply with these conditions, the brothers were frightened, and began to reproach themselves for the plot against Joseph:

²⁶ Transl. according to NETS.

²⁷ Goodenough 1938, 55. Niehoff (2011, 21) argues that *De Iosepho* “engage[s] in the contemporary discourse regarding both form and content”.

“That wrong we did”, they said, “is the cause of our present evil plight. Justice, the surveyor of human affairs, is now devising our downfall. For a little while she kept quiet, but now is awake and shews her implacable and inexorable nature to those who deserve punishment”.

Ios. 170

When Joseph's brothers recognize that *δίκη* was devising their punishment for their crime against Joseph, this is an example of how Philo understood this principle on the basis of the Stoic view of history at work in his interpretation of the biblical history. In both the *Exposition* and the historical writings, Philo refers to *δίκη* as the divine agency which enforces the punishments (*Praem.* 136) upon the wicked which Deuteronomy and Leviticus warn will be inflicted on those who disregard the Mosaic legislation (*Praem.* 127–151). Likewise, Philo asserts that God did not intertwine the Decalogue with penalties for infractions, knowing that *δίκη*, the surveyor of human affairs, would enforce the commandments by inflicting punishment on sinners in virtue of her natural hatred of evil (*Decal.* 177). In his historical treatises *In Flaccum* and *Legatio ad Gaium*, he interprets history from the same perspective of the Stoic principle of *δίκη*. Thus, when Flaccus permitted the anti-Semitic mobs to murder Jews when they resisted his approval of setting up images of the emperor in the Jewish synagogues, Philo says of Flaccus: “At this point *δίκη*, the champion and defender of the wronged, the avenger of unholy men and deeds, began to enter the lists against him” (*Flacc.* 104). At the close of his account of Flaccus, Philo concludes that when Flaccus was killed by the agents of emperor Gaius, the retribution of his crimes against the Jewish people was carried out with mathematical precision according to the principle of *δίκη*: “For it was the will of *δίκη* that the butcheries which she wrought on his single body should be as numerous as the number of the Jews whom he unlawfully put to death” (*Flacc.* 189).

At this juncture, Philo amplifies the biblical account and interprets the afflictions which came upon the brothers as a reversal of the plot against Joseph:

But the eldest of the brothers, who originally opposed them when they were forming their plot, said: Remorse for what is done is useless. I proved to you the enormity of the crime and begged and exhorted you not to give way to your wrath, but when you should have accepted my advice you let your evil counsels have their way. And so we are reaping the rewards of our self-will and impiety. The plot we hatched for him is under inquisition, but the inquisitor is no man but God or the word or law of God (*ζητείται μὲν ἢ*

ἐπ' ἐκείνῳ τυρευθεῖσα ἐπιβουλή, ὁ δὲ ζητῶν οὐκ ἔστιν ἄνθρωπος, ἀλλ' ἢ θεὸς ἢ λόγος ἢ νόμος θεῖος).

Ios. 173–174

In judicial terms, Philo describes how the brothers came to recognize that the conspiracy they had hatched against Joseph was now itself under investigation, and that the investigator was no man, i.e. Joseph, but “but God or the word or law of God.” As Goodenough comments, this seems again to be a move made by Philo in accordance with the ideology of kingship:

Joseph was recognized by the brothers as being only the vehicle through whom logos or divine law operated. In his official capacity he was divinity, not humanity. This statement seems to be of great importance to me as marking Philo's ultimate concession to the current theory of kingship. [...] Philo is quite ready to admit that the good ruler is the mediator of divine rulership to men, and although the ruler must be regarded as a human being in nature, his royal, official, voice is the voice not only of logos and divine law, but of God.²⁸

Such an interpretation of the figure of Joseph gains support from W. Richardson's view that Philo here characterizes him as an incarnation of divine law.²⁹ Before the account of the final reconciliation between Joseph and his brothers, Philo amplifies the biblical account by explaining that the reason why Joseph had tested them was to reveal whether they cherished some secret envy against their youngest brother and had in mind another conspiracy to undo his mother's family. Hence, Philo describes Joseph in various judicial roles as one who had denounced them, as an investigator who interrogated the suspects, and as an advocate who tried to establish testimonies that would overturn any false accusations:

Finally it was for the same reason that when he saw how pleased and overjoyed they were at the honour paid to that brother and thus had established by two testimonies (μαρτυρίαι) that there was no smouldering enmity, he devised this third testimony (μαρτυρία), namely to pretend that the cup had been stolen, and charge the theft to the youngest. For this would be the clearest conviction (ἐλεγχος) as to the real feeling of

²⁸ Goodenough 1938, 58.

²⁹ Richardson 1957, 520–521.

each, and their attachment to the brother thus falsely accused (συκοφαντέω).

Ios. 235

In the account of the ultimate reconciliation between Joseph and his brothers Philo once again makes Joseph on a figurative level perform, as in a *cognitio*, the legal role of a judge who comes together with his fellow counselors:

Be not downcast, he continued, I forgive and forget all what you did to me. Do not ask for any other advocate. Of my own free, unbidden judgment I have voluntarily come to make my peace with you. In this I have two fellow counselors, my reverence for our father, which is chiefly responsible for the favor I show you, and the natural humanity which I feel to all men, and particularly to those of my own blood. And I consider that the cause of what has happened is not you but God, Who willed to use me as His servant, to administer the boons and gift which He designs to grant to the human race in the time of their greatest need.

Ios. 239–241

Here again, Philo draws on the ideal of Hellenistic kingship when he has Joseph refer to God as the cause of his φιλανθρωπία (“love of human beings”) to his brothers and all human beings.³⁰ In *Cher.* 98–100 and *Plant.* 90–92, Philo applies the same notion to God, pictured as a king, who acts out of love for human beings. Moreover, when Philo here makes God the cause of what has happened to Joseph and his brothers, this is another expression of the emphasis he lays on God’s reversal of the plot against Joseph. This notion is reiterated in several places throughout the treatise, and especially at points when Philo lets Joseph summarize his life experiences:

[...] also considering what had happened to himself he came to the conclusion that his experiences were probably due not so much to their conspiring as to the providence of God who beholds distant events and sees the future no less than the present.

Ios. 236

We have the uncreated Father, the Imperishable, the Eternal, “who surveys all things and hears all things,” even when no word is spoken, He

30 Cf. Busse 2006, 299 n. 57.

Who ever sees into the recesses of the mind, whom I call as witness to my conscience, which affirms that that was no false reconciliation. For I,—do not marvel at my words,—belong to God who converted your evil schemes into a superabundance of blessings.

Ios. 265

In the former text, Philo employs the Stoic notion of providence, *πρόνοια*, to convey the aspect of Joseph's reversal. When Joseph was sold to Egypt, went through ensuing tragedies (cf. *Ios. 99*) and was exalted to become a king or viceroy of Pharaoh as the outcome of his brothers' conspiracy (cf. *Ios. 116, 236*), and eventually was reunited with his family, it all happened according to God's providence. As Niehoff puts it:

As is well known, Joseph's life was not only characterized by many reversals, but also by numerous portentous dreams. The biblical narrator himself regarded these dreams as a sort of prophecy, indicating that God directed the plot from behind the scenes. While the characters in the story may not be aware of it, thinking that they are independent actors, they must ultimately realize that God controlled everything.³¹

Thus, in Philo's concept of history, providence, like justice, is the divine force and agency by which God provides for the Jewish people and all human beings.³² In this regard, one of Philo's tasks in rewriting the reversal of the plot against Joseph is to give an example of how God's providence is the force behind what happened to Joseph, who experienced well-being, prosperity and vindication to the benefit even of those who initially plotted evil schemes against him:

But I have told you all this, not because I plume and pride myself thereon, but that you may perceive that no man could have caused such greatness to come to one who was a slave and afterwards a prisoner—for I was once in bonds under a false charge—but He Who turned my condition of extreme calamity into one of unequaled and exalted good fortune was God to Whom all things are possible.

Ios. 244

31 Niehoff 2011, 19–20.

32 Sowers 1967, 22–25.

My examination of key conceptual points in the treatise *De Iosepho* within the genre of a political biography and the context of Hellenistic kingship has shown that Philo presents an idealized image of Joseph's early youth and career within the framework of Hellenistic kingship ideology, and adapts the biblical narrative to these ideals.

When I now turn to John, I shall suggest that Philo's *De Iosepho* provides an analogy which can be seen as a parallel to the way John has dramatized his 'political' narrative of Jesus' elevation to kingship. In John too, the idealized figure and protagonist reaches the status of kingship via a 'conspiracy', in which the antagonists are seen to contribute to the realization of God's plan.

3 The Divine Reversal of the Conspiracy against Jesus

3.1 *The Reversal of the Judicial Roles between the Jews and Jesus*

In this section, I shall maintain that the various legal roles ascribed to Joseph in *Ios.* 174, as representing God, logos, and the divine law, can serve as a backdrop to key passages in John, in which Jesus seems to carry out the same legal functions from the perspective of a divine lawsuit against the world. It is my suggestion that the affinities with Philo deserve due attention, and provide an analogy to the legal and divine reversal of the lawsuit motif in John. I begin with a discussion of John 8:50, followed by some observations on 3:19–21 and 12:48–49 in their literary contexts.

3.1.1 God as Investigator: John 8:50b

On John 8:50, I shall take my lead from W. Bauer's interpretation of the word ζητέω ("seek"), which in his view carries two different senses in this passage. Bauer reads ζητέω as "seek" in John 8:50a with the glory of Jesus as object, while 8:50b lacks a direct object for ζητέω, and which he then takes to mean "investigate", in a technical legal sense. Thus, Bauer translates 8:50 as follows: "I do not seek (ζητῶ) my own glory; there is one who investigates (ὁ ζητῶν) and judges (κρίνων)." It is noteworthy that Bauer refers to Philo, *Ios.* 174, as a parallel in support of this reading.³³ This reference had entered "the commentary tradition, however, not through Bauer, but through the commentary of Westcott, who, nevertheless, does not seem to recognize fully its legal implications."³⁴ Bauer's interpretation of "seeking" in 8:50 in a legal sense was objected

33 Bauer 1933, 131.

34 Parsenios 2010, 53 n. 19.

to by scholars such as E. Hoskyns and R. Bultmann, who defended the standard reading by supplying the object “my glory” to the verb “seek”, which then meant that God was seeking the glory of Jesus. Yet, Bultmann recognizes that Bauer’s interpretation is not altogether inappropriate in the context of Johannine theology, “for in either case we must preserve the image of Jesus’ lawsuit against the world before the tribunal of God [...]”.³⁵ Hoskyns rejected Bauer’s legal understanding on the basis that “in his dictionary he is able to advance only non-biblical evidence for the translation ‘investigates’ [...]”.³⁶ He continues:

It is God who is *seeking* (*requiring*, cf. Philo’s comment on Gen xlii. 22 cited by Westcott, He that requireth is not man but God, or the Word, or the Divine Law: *de Ios.* 174) and *judging* those who reject His Son (xii. 47, 48). They and not Jesus, are under sentence of death (viii. 21, 24).³⁷

This quotation suggests that there is a certain inconsistency in Hoskyns’ argument against Bauer. On the one hand, he does not accept Bauer’s reference to non-biblical parallels such as *Ios.* 174 as sufficient evidence, while, on the other hand, he refers to exactly the same text as a parallel to John 8:50 and to the same word “seeking” there, which he then is forced to read in a non-legal sense as “requiring”. In the light of the legal context of *Ios.* 174, such a reading seems unnatural and erroneous. G.L. Parsenios follows Bauer in his translation of “seek” as “investigate” in John 8:50b.³⁸ In Parsenios’ view, the Greek forensic rhetoric, as in Sophocles’ *Oedipus Rex* serves as evidence and as a framework for the reversal involved in the investigative seeking referred to in John 8:50. He writes:

By reading John in light of *Oedipus Rex* we see a model for how a forensic ζήτησις can be dramatized, and this helps us to see new possibilities in John. [...] There is a similar function in the ζήτησις especially in the way that a basic irony underlies each investigation. Oedipus conducts an inquiry that leads to his own guilt; he thinks he is the prosecutor, but he is actually the guilty defendant. A similar irony drives the lawsuit motif in the Gospel of John. [...] Even more, it leads to the insight that Jesus is not

35 Bultmann 1971, 300.

36 Hoskyns 1956, 346.

37 Hoskyns 1956, 346.

38 Parsenios 2010, 53–54, 64–65.

the judged but the judge, together with his Father. The leaders of the Jews think that they are conducting an investigation, but it is actually God who is investigating and judging.³⁹

Parsenios finds further corroboration of his argument in the gospel, both with regard to ζητέω in 8:50 coupled with “judging” (“there is one who seeks and judges”), and to the prominence and character of judging in relationship to the motif of “seeking” in chapters 7 and 8. Unfortunately, neither Westscott, Bauer, Hoskyns, nor most recently Parsenios, who all refer to *Ios.* 174, interpret this text on its own in its literary context in order to compare it with John 8:50. Since *Ios.* 174, as far as I am aware, is the only parallel to the way John 8:50b appears to refer to the legal notion of God as an “investigator”, such a study would be worthwhile. And there are in fact some affinities between *Ios.* 174 and John 8:50 that are noteworthy, when their literary contexts are taken into due consideration.

Let me offer the following observations: 1. As I pointed out above, *Ios.* 174 appears at a key juncture of the treatise, when the brothers realize the legal reversal of the crime and the plot they have instigated against Joseph: “The conspiracy we contrived against him is being investigated (ζητεῖται) [...]”. On a human level, then, the point of departure and reason that the brothers are themselves under a divine investigation is the crime of their conspiracy to kill Joseph. In a similar way, John’s portrayal of a divine investigation of the Jews presupposes their rejection of Jesus, which culminates in their plot to kill Jesus (5:18; 7:1, 19; 8:40, 59; 10:31; 11:53).⁴⁰ Stibbe describes this plot on the part of the Jews as like a ‘conspiracy’: “But there is also another plot. This is the quest of the Jews to destroy Jesus. [...] This is a plot in the non-literary as well as the literary sense. In other words, it is a conspiracy.”⁴¹ Such a decision to put Jesus to death as the judicial basis for the reversal motif is also argued by Hoskyns: “The Jews suppose that they are protecting the honour of God by seeking to put Jesus to death (v. 18, vii. 1, 19, viii. 37, 40, xviii. 4 sqq.). They sought Jesus, they judged Him, and finally they put Him to death. The ultimate truth is, however, the opposite. It is God who is *seeking* [...] those who reject His Son [...].”⁴² Furthermore, against the background of Philo’s emphasis on the

39 Parsenios 2010, 133.

40 Cf. Bultmann’s comment on John 11:53: “The decision that Jesus must die, which was long ago purposed (5:18; 7:1; 8:40, 59; 10:31), is now at last taken (v. 53)”, (1971, 412).

41 Stibbe 1994, 47.

42 Hoskyns 1956, 346.

brothers' remorse at bringing disgrace on their ancestors because of the crime they committed against Joseph, it may be an ironical touch in that, while the Jews seek to kill Jesus, they at the same time claim to be true descendants of Abraham (John 8:37–41).

2. In *Ios.* 174, Philo interprets the conspiracy against Joseph from a divine perspective: "The conspiracy we contrived against him is being investigated (ζητεῖται) and the one who investigates (ζητῶν) is no mortal being (ἄνθρωπος) but either God [...]" (*Ios* 174). Thus, the legal roles between the protagonists and antagonists are turned around. Joseph is here portrayed as the one who conducts the legal role of an investigator, representing God. A similar movement from a human to a divine level underlies the irony involved in John 8:50. Thus, like Philo, John has integrated the decision to kill the protagonist into a cosmic divine lawsuit. L. Morris has put the legal reversal involved in this verse as follows:

There is possibly some of John's irony here. The Jews were continually "seeking" Jesus in their mistaken zeal for God's glory, and their seeking was aimed at and would ultimately issue in Jesus' death [...] But in a deeper sense the real seeking was done by God. Further, this seeking means judgment for those who, for all their zeal, are so hopelessly opposed to God's purposes.⁴³

3. According to Philo's account in *De Iosepho*, the brothers of Joseph recognized that δίκη was devising their punishment for their crime against Joseph:

But they, filled with gloom and depression, began to reproach themselves for their plot (ἐπιβουλῆς) against their brother. "That wrong we did", they said, "is the cause of our present evil plight (κακῶν). Justice (δίκης), the surveyor of human affairs, is now devising our downfall. For a little while she kept quiet, but now is awake and shews her implacable and inexorable nature to those who deserve punishment."

Ios. 170

Furthermore, according to Philo, the punishment the brothers were expected to suffer because of their crime is further described in glaring contrast to the virtues of their ancestors and as a disgrace to their kin:

43 Morris 1971, 415.

[...] And, therefore, let us expect to suffer this, and even worse than this, we who though almost alone among men we owe our title of nobly-born to the surpassing virtues of father, grandfather and ancestors, have shamed our kin and hastened to load ourselves with infamy and disgrace.

Ios. 172

In other words, by committing the crime of rejecting Joseph, the brothers proved that they were acting against their true ancestors, including their father Jacob, Isaac as their noble grandfather, and Abraham as their ancestor, thereby shaming their kin. In a similar way, John asserts that the Jews were under the sentence of death because of their ‘crime’ (sin), which consisted in their disbelief and rejection of Jesus (8:21, 24). Correspondingly, the implication of the Jewish opposition to Jesus in John 8:30–59 is made clear by means of the issue of paternity. The Johannine Jesus claims: “If you were Abraham’s children, you would be doing what Abraham did, but now you are trying to kill me [...] This is not what Abraham did.” (8:39–40). To do as Abraham did would have meant having faith in Jesus (8:45). This point is also clarified at the end of the discussion: “Your ancestor Abraham rejoiced that he would see my day; he saw it and was glad” (8:56). The Jews were not glad, but rather angry (cf. 7:23) and full of hate (cf. 7:7); this is why they tried to kill Jesus (cf. 8:59). Thus, the Jews proved that they were not Abraham’s descendants, and that they derived from the devil, who was called a murderer (8:41–47).

To sum up, the comparison of Philo, *Ios.* 174 and John 8:50 may support the suggestion that the use of the term “seek” in John 8:50 carries a judicial sense and is employed in order to emphasize a divine reversal in the Johannine narrative. Additional cumulative force to this argument will be seen when I shed light on the divine reversal inherent in John 3:19–21 and 12:46–49, against the background of the legal connotation of the terms Logos and Divine Law that are referred to in *Ios.* 174.

3.1.2 Logos as Investigator and Judge: John 3:19–21 and 12:46–48

As we have seen, in *Ios.* 174, the legal roles between the protagonists and antagonists are turned around. The crime of the conspiracy against Joseph is now being investigated on a divine level: “The conspiracy we contrived against him is being investigated (ζητεῖται) and the one who investigates (ζητῶν) is no mortal being (ἄνθρωπος) but either God, or logos, or the law of God (ἀλλ’ ἢ θεὸς ἢ λόγος ἢ νόμος θεῖος)” (*Ios.* 174). Joseph is here depicted as an agent who conducts the role of an investigator, not only behalf of God, but also in terms of Hellenistic kingship ideology as the incarnation of the logos, and the divine

law, respectively.⁴⁴ The question in this section is whether these motifs of the logos and the divine law may be relevant to our understanding of the references to the logos and the commandment, with the role of a judge, in John 3:19–21 and 12:46–48. Before we discuss whether there is an affinity in the legal roles ascribed to the logos and the divine law/commandment in these texts, another question needs first to be clarified, viz. whether the process of investigation involved judgment. We saw above that in John 8:50, the investigative process on the part of God was coupled with the performance of judgment. The way the motif of the Logos-light in John appears in association with the themes of ‘conviction’ and judgment may offer another pointer to an affirmative answer. Moreover, there are similarities between the ideas associated with the Law as a judge in Judaism and the idea in John that the coming of the Logos-light unmasks and judges human beings.

The judicial function of the light comes to expression in John 3:19–21:

And this is the judgment (κρίσις), that the light (φῶς) has come into the world, and people loved darkness rather than light because their deeds were evil. For all who do evil hate the light and do not come to the light, so that their deeds may not be exposed (ἐλεγχθῇ). But those who do what is true come to the light, so that it may be clearly seen that their deeds have been done in God.

Since much of the contents of this text reappear in John 12, let me offer some brief comments on it within a Jewish context. First, the motif of the light appearing as a judge is attested in e.g. 2 *En.* 46:3b:

For then the Lord will send out his great light, and in darkness the judgment will take place. And who, there, will be hidden?

Second, it is interesting that we also find in 2 *Bar.* 19:3–4 the motif of the light that unmasks men:

They, however, sinned and trespassed after his death (i.e. Moses’ death), although they knew that they had the Law to reprove them and that light

44 The relationship between the king and the law or the logos was a basic element of Greek kingship ideology. According to Goodenough (1928, 59), in the Hellenistic conception of kingship the king is the law animate, which means that the king is above the law and incarnates the law. See also Busse, 2006, 299–300; Jackson-McCabe 2001, 93–95.

in which nothing could err, apart from the spheres, which witnessed, and me. And I judge everything that exists.

Third, in the context of *2 Bar.* 17:4 and *2 Baruch* 18, it is clear that the light here refers to the Law, which was given to Israel through Moses at Sinai. This is also supported by Jewish texts such as *Wisdom* 18:4, which says that the law's light will be given to the world: τὸ [...] νόμου φῶς τῷ αἰῶνι δίδοσθαι. S. Aalen comments on the use of the Law as leading to the 'conviction' of human beings in *2 Baruch* 19:

Wenn unser Vers formal auch zwischen Gesetz und Licht unterscheidet, ist doch nach dem Zusammenhang die Annahme gerechtfertigt, dass gerade das Gesetz und nicht nur das allsehende Auge Gottes das tadelnde und überführende Licht ist. Es ergibt sich also die Vorstellung, dass ein durch eine historische Begebenheit im Leben Israels eingeführtes Licht die Funktion eines ἐλέγχων hat und in engem Zusammenhang mit Gottes richtender Funktion steht.⁴⁵

Against such a Jewish background, we can observe that a similar line of thought, which involves a play on precisely the same motifs, operates also in John 3:19–20. Thus, we find that the light, by its appearance in the world, brings about judgment of the darkness, and that the coming of the light leads to a conviction (ἐλέγχω) of human beings. There has been some debate about whether the Greek verb ἐλέγχω here should be translated "convict" in a legal sense, or carries the less technical meaning of "expose". In any case, against the Jewish background of the function of the light within a legal context, exemplified above, it is certain that that the notion of being "exposed" is tantamount to being judged or convicted in a legal sense. Hence, the meaning is that the darkness is judged and exposed when it is confronted with the light. Moreover, since John 1:9 says that the Logos is the light, it is also probable that the thought-model behind 3:18 "that the light has come into the world" is the coming of the Logos-light at the law-giving at Sinai.⁴⁶ Several references in John corroborate this view. As I have argued in chapters four and five, John 1:9–11, 5:38 and 10:35 most probably refer to the appearance of the Logos at the giving of the Law at Sinai.

45 Aalen 1951, 234–235.

46 Aalen 1951, 273 n. 3.

Furthermore, in several passages, John transfers the role of the Torah and terminology which is usually ascribed to the Torah in Jewish sources to the function of Christ. For example, as it is stated in Jewish texts that the Torah brings life and light to the world, so Jesus as the Logos in flesh brings life and light as the bread from heaven (6:33) and as the light of the world (8:12). Correspondingly, John 3:19–20 should be taken as another example of this transference of aspects of the Torah to Jesus. Hence, the coming of the light refers to Jesus, who has entered the world as the Logos (cf. 1:6–9, 14, 20), and who will expose and judge the sins of the people who come to him. Accordingly, the reverse is also true, namely, that those who will not be exposed remain in the darkness, and from this we might infer that the judgment has already taken place in the darkness, cf. 2 *En.* 46:3b, quoted above. According to John 16:8–11, the Paraclete will continue Jesus' role, and bring conviction to the world: "And when he comes, he will convict (ἐλέγχω) sin and righteousness and judgment [...]." There is also a parallel in Philo's account of Joseph to this role of Jesus, who under the symbol of the Logos-light who convicts (ἐλέγχω) the sins of the world. As we observed above, from the perspective of his brothers, Joseph acted as a divine investigator under the form of God, or the Logos, or the divine law (*Ios.* 174). As an illustration of this investigative process, Philo later on describes how Joseph pretended that his cup had been stolen, and charged the theft to the youngest. The intention of this accusation was to test the reaction of the brothers, which would serve as a testimony either for or against them, since "this would be the clearest conviction (ἐλεγχος) as to the real feeling of each, and their attachment to the brother thus falsely accused (συκοφαντέω)" (*Ios.* 235).

I now turn to John 12:46–49:

I have come as light into the world, so that everyone who believes in me should not remain in the darkness. I do not judge anyone who hears my words and does not keep them, for I came not to judge the world, but to save the world. The one who rejects me and does not receive my word has a judge; on the last day the word that I have spoken will serve as judge, for I have not spoken on my own, but the Father who sent me has himself given me a commandment about what to say and what to speak.

Much of what has been said above on John 3:16–19 is applicable to this text. In the first place, the perspective from which the dialectic between light and darkness is seen is that the coming of Jesus as the light brings *ὁ λόγος* and *ἐντολή*. Second, once again, these motifs are related to God's judgment of the world. Here again, we have the assertion of a judgment performed by *ὁ λόγος*, which is

interpreted as the word Jesus has spoken. It is noteworthy that the assertion of a legal reversal is present here too. The judgment will come upon those who reject Jesus' words (ῥήματα), and this leads into the statement that Jesus' word (λόγος) will be the Judge. The distinction between Jesus and his words, the change from the plural to the singular, which can be observed elsewhere in John too (cf. e.g. 8:47 with 8:43, 51; 15:7 with 15:3), serves to emphasize the judging function of Jesus' word. Third, the association of these motifs and their transference to Jesus may be another indication that the giving of the law at Sinai provides the referential background. At any rate, there is a certain resemblance in Philo's *De Iosepho* to the way in which λόγος is seen as the means by which Jesus judges on behalf of God. In Philo's text, in the context of a legal reversal, Joseph's brothers recognized that their judgment was made not by a "human being, but by divinity, or λόγος, [...]" (*Ios.* 174). Thus, the way Joseph was recognized through the lens of Hellenistic kingship ideology as the vehicle through whom λόγος operated may also have been an integral part of the cultural context of John.

3.2 *The Conspiracy as a Vehicle for God's Will*

M.L. Ryan's definition of "complex narrativity" may offer a helpful perspective for clarifying my aim in the rest of this chapter.⁴⁷ According to her theory, narratives in this category contain individual narratives on a micro-level, but these are related in a macro-plot, which generally bears the focus of interest. Although far from clear-cut, such a distinction accounts for our intuition that a narrative may consist of both a main plot line, usually bearing the focus of interest and reflected in summaries, and a number of semi-autonomous 'little stories' grafted upon this line. In the complex mode, narrative structures appear on both the macro- and the micro-levels, and a relative balance is achieved between the two levels.⁴⁸ Building on such a literary perspective of "complex narrativity", a comparison of Philo's account in *De Iosepho* and the narrative in John's gospel suggests that they may be conceived as representing so-called micro-plots or "little stories" grafted upon the line of a macro-plot. From this perspective, the micro-plots convey how the conspiracies against the protagonists Joseph and Jesus become a vehicle which contributes to their exaltation to kingship and hence the realization of God's plan, which represents the macro-plot of the narrative. In these portrayals of the protagonist as the

47 Ryan 1992. For a discussion and application of Ryan's article, cf. Andersson 2001, 142–144. I owe these references to Ph.D. student C.M. Carlstein, Uppsala University.

48 Ryan 1992, 371.

true model of kingship, both Philo and John can be seen to draw on elements of the ideology of Hellenistic kingship.

3.2.1 Elevation to Kingship

The central irony in the literary plot of the narratives in both *De Iosepho* and John is that the conspiracy to put the protagonist to death turns out to be his elevation to kingship. In general, it is often the function of the opening of a narrative to introduce the theme around which the rest will revolve. For example, the macro-plot of *De Iosepho* refers to the issue of kingship at the outset in § 2:

And therefore I think the order of poets often speaks of kings as shepherds of peoples, for success in shepherding will produce the best king, since through the charge of flocks which deserve less thought and care he has been thought worthy of the charge of the noblest flock of living creatures—mankind.

Against the background of Jacob's preparation of Joseph for a position as a king by training him as a shepherd (*Ios.* 2–3), the plot was further incited by envy, when his brothers heard about Joseph's dream, and became frightened that he should be their lord and king:

His brothers [...] skilful at interpreting symbols and thus by probable conjectures discovering the obscure, replied: "Do you think that you will be our lord and king? For that is what you hint at in this lying vision." And their hatred, ever finding some new ground to augment it, was still more kindled against him.

Ios. 7

The plot takes effect, and the narrative goes on to speak of Joseph's assignment to the superintendence of Potiphar's household. This was a further ideal training for the duties of 'kingship' (*Ios.* 38–39). The treatise now proceed to describe Joseph's disposition as a true Hellenistic king, which eventually brought about his elevation to the position as a king. The installation of Joseph with his royal *insignia* made clear how Philo conceived Joseph to be the type of a king:

[...] if the truth be said, king, [...] resigning to him the actual sovereignty and doing everything else that might give the young man honor. So, then, he bestowed on him the royal seal and put upon him a sacred robe and a golden necklace, and setting him on his second chariot bade him go

the round of the city with a crier walking in front who proclaimed the appointment to those who did not know of it.

Ios. 117–120

In the case of John, some brief observations show that Jesus' royal status has affinities to Hellenistic and Roman kingship at certain key junctures in the Johannine narrative, just as with Joseph in Philo's *De Iosepho*. First, corresponding to the literary structure of *De Iosepho*, the topic of Jesus' kingship is emphasized in the beginning of John's narrative. It is significant that both Philo and John presuppose the commonplace idea in Hellenistic and Roman kingship ideology that the king or Emperor embodied the Logos of God.⁴⁹ Thus, corresponding to the way in which the royal figure of Joseph (*Ios.* 174) was lifted up on a divine level and depicted as the embodiment of the Logos, John at the outset draws the trajectory from the role Jesus was to play in history as king back to the idea of the incarnation of the divine Logos and the Light.⁵⁰ Thus, there are two places in the prologue itself where John the Witness is mentioned explicitly, in 1:6–8(9) and in 1:15. In vv. 6–9 we read that the pre-incarnational light is coming to the world. The claim made that John the Witness was not the light, but that he bore witness to the light, points forward to the subsequent section on John the Witness in 1:19–34. Witnessing about Jesus, John explicitly said that he himself was not the Christ. This denial suggests that Jesus was the Christ, and that John the Witness made no claim to assume his role. Likewise, John the Witness identifies Jesus as the king by the application of the royal titles "the lamb of God" and the "Son of God".⁵¹ In support of this view, we learn from the literary context that when two of John the Witness' disciples heard him once again identify Jesus as 'the Lamb of God' in v. 41, one of the two, Andrew, said, "We have found the Messiah (which means Christ)." Later on, we read that Nathanael's confession: "You are the King of Israel" (1:49). Furthermore, John

49 G. Chesnut argues that this idea was further developed in Roman political theory. He concludes: "the notion of the emperor as the embodied Law or Logos of God, which appeared in a variety of contexts, both pagan and Jewish, was therefore a widespread and quite commonplace idea in the Roman world during the period of the Early Empire. It was simply a part of the general intellectual atmosphere" (1972, 1329).

50 In the heading in 1:19, "And this (Καὶ αὐτῇ) is the testimony of John", the word καὶ connects John 1:19–34 with the preceding prologue (cf. Beutler 1972, 250; Borgen 2014, 225).

51 The suggestion that "God's Lamb" is a royal and Messianic title was first proposed by Dodd (1953, 230–238) and has subsequently been supported by scholars such as Brown (2010, 183–185), Aune (1997, 367–373), and most recently Borgen (2014, 231). On the messianic connotation of the title 'Son of God', see Collins and Collins 2008, 1–24.

the Witness states that the aim of his own calling was to reveal Jesus to Israel as the Son of God (1:32–34).⁵²

Second, as we noted above, Philo emphasized Joseph as an ideal king who cared for his people. He compared Joseph with a physician and described how Joseph provided food against a time of famine. Likewise, Moses is described by Philo as “invested with this office and kingship (βασιλείαν), not like some of those who thrust themselves into positions of power by means of arms and engines of war and strength of infantry, cavalry and navy, but on account of his goodness and his nobility of conduct and the universal benevolence which he never failed to shew” (*Mos.* 1:148). This imagery of a king who functions both as a beneficial physician and a nourisher of his people may be relevant as a ‘horizon’ for the reading of John 6:1–15. In John 6:2, a summary statement is made about the signs which Jesus did on those who were diseased: “A large crowd kept following him, because they saw the signs that he was doing for the sick.” Scholars should place more emphasis on the fact that the brief summary reference to the signs of healing in vv. 1–2 is included in the text together with the feeding of the multitude.⁵³ Hence, according to a suggestion posed by Borgen, “The meal was another mighty work of Jesus, another sign in continuation with the signs done on those who were diseased.”⁵⁴ The ideal imagery of a king who takes care of his people, like that we have seen reflected in Philo, would most probably have been part of the ‘horizon of expectations’ of John’s first readers, who would assume that the crowd, according to 6:15, would perceive Jesus as a potential candidate for kingship.⁵⁵ Against such a background, the choice of Jesus as king was not taken on the basis of political or military activity, “but on account of his goodness and his nobility of conduct and the universal benevolence which he never failed to shew” (*Mos.* 1:148). As Borgen puts it:

52 On the relationship between the prologue (1:1–18) and the subsequent section 1:19–34, see Borgen 2014, 225. Borgen, however, does not discuss the similarities between *De Iosepho* and John against the background of the relationship between the ‘king’, the ‘Logos’ and the ‘Law’ as a topic of Greek political thought.

53 Borgen 2014, 204–205.

54 Borgen 2014, 204.

55 Busse comments on John 6:15: “[...] Sie wollen ihn quasi mit Gewalt zu ihrem König proklamieren. Diese, wenn auch aus johanneischer Perspektive falsche Reaktion der Begünstigten wird jedoch aus deren Erfahrungshorizont verständlich. Ihr Motiv, ihn zum König zu machen, setzt eine Situation voraus, in der es eine vom Euergetismus bestimmte Persönlichkeit wie Jesus bei ihnen nicht gab, sie sich aber vom Königtum gerade das versprachen, was er für sie getan hatte. Dies entspricht einem viel bezeugten hellenistischen Erwartungshorizont” (2006, 303).

The multitude that followed Jesus had seen the signs which he had done on those who were sick, and he had arranged a meal for them. They worked for their food, v. 27. As a person who showed goodness and benevolence, Jesus perceived that they were about to make him king.⁵⁶

Third, as we have seen, Philo portrayed Joseph as a shepherd-king in keeping with Hellenistic notions of kingship. Thus, according to Philo, Jacob at the outset had recognized his gifts for rulership, and prepared him for a position as a king by training him as a shepherd (*Ios.* 2–3) who was to take care of his people. In a corresponding way, John identified Jesus by means of the same imagery, as one who was to display his true kingship by laying down his life as a shepherd-king for the sake of the sheep (10:11, 15). Hence, John's description later on of the arrest scene and the proceedings before Pilate elaborates further on elements from this imagery of the shepherd king that are prepared for in the Good Shepherd discourse in chapter 10, and he shows how Jesus' understanding of his role as king is radically redefined vis-à-vis ancient kingship ideology in view of his mission as God's agent.⁵⁷

Fourth, the motif of a 'conspiracy' against Jesus is played out against the background of a royal status ascribed to Jesus and thus a revolutionary social and 'messianic' upheaval. Both his followers and his opponents may have thought of him as a potential messiah, even though Jesus himself did not explicitly claim to be the Messiah.⁵⁸ In the structure of the Johannine account, the conflicts between Jesus and the Jews belong to the features that drive the action forward toward the downfall of Jesus. In chapters 5–11, the level of violence against Jesus rises, as we see in John's use of the literary device of prolepses (5:18, 7:1, 25; 8:40, 59; 10:31; 11:8), which point forward to the official plot on the part of the Jewish authorities to have Jesus killed (11:53): "So the chief priests and the Pharisees called a meeting of the council, and said, 'What are we to do? This man is performing many signs. If we let him go on like this, everyone will believe in him' [...] So from that day on they plotted (ἐβουλεύσαντο) to put him to death" (11:47–53). Thus, scholars, such as Dodd saw in John 6:14 evidence of a revolutionary messianism that could have been implicit in the feeding of the five thousand.⁵⁹ As I suggest in the next chapter, such a miracle

⁵⁶ Borgen 2014, 205.

⁵⁷ Meeks 1967, 66–67.

⁵⁸ Cf. Dahl 1992, 402.

⁵⁹ Dodd 1963, 212–216; Rensberger 1984, 396.

might have been seen as an evocation of the miracles at the Exodus, similar to the re-enactment by other would-be revolutionaries; and it was expected that it would be re-enacted in hope of a Jewish victorious emperor-king. This may be confirmed by the Jewish authorities' fear of revolution and destruction at the hands of the Romans (11:48). Likewise, Jesus' withdrawal lest "they make him king" (6:14), which is echoed in the assertion by the Jewish authorities to Pilate, "Everyone who claims to be a king sets himself against the emperor" (19:12), followed shortly their words, "We have no king but Caesar" (19:12), must be conceived within such a political framework. Hence, in a situation characterized by this threat to public and political disorder with implied messianic overtones, it becomes easier to understand Caiaphas' words about what is expedient for the people ("it is better for you to have one man die for the people than to have the whole nation destroyed", 11:50).

Finally, in the examination before Pilate, Jesus affirmed his royal status, but said that his kingly position was not of a kind based on political motives or in favor with the populace. His power came "from above" and was expressed in bearing witness to the truth, not in wielding the sword (18:33–37). The issue of a hidden and revealed Messiah reaches its first peak when Pilate claims that Jesus is "the man" (19:5), but in reality makes a public manifestation of Jesus as a King and enthrones him in full view of the Jews as the emperor-king of the Jews (19:13), in a way that mirrors how Pharaoh appointed Joseph as viceroy of his kingdom, and installed and enthroned him almost like a "king" before the Egyptians. The royal parody reaches its culmination when Jesus, by his exaltation on the cross, is elevated as King over the whole world (19:20). Hence, John recounted the death of Jesus in a way which did not negate his kingship, but actually demonstrated and revealed its true character.

3.2.2 The Divine Reversal of the Plot

As we said above, Stibbe's perspective on the Johannine narrative was that John has actually two plots carrying its structure. Thus, he has a main plot, "Jesus' quest to do the work of the Father", and a counter-plot, "the quest of the Jews to destroy Jesus." In the light of Ryan's model of "complex narrativity", the perspective posed in this section may resemble such a perspective. In accordance with her terminology, I would refer to the 'conspiracy' against Jesus as the micro-plot, which enables his exaltation as king, which then turned out to be the will of God, representing the macro-plot. Thus, the conspiracy, death, and execution of Jesus as king of the Jews have been turned upside down to become a central part of the gospel of John. In what follows, I shall sketch how John interprets the conspiracy to kill Jesus within the purpose of God's love for the world.

Just as Philo's account of the conspiracy against Joseph interpreted this as lying within the purpose of God's providence, John too interprets the plot against Jesus as a prophecy and a "vehicle for the divine prediction of the outcome of the trial".⁶⁰

But one of them, Caiaphas, who was high priest that year, said to them, 'You know nothing at all! You do not understand that it is better for you to have one man die for the people than to have the whole nation destroyed.' He did not say this on his own, but being high priest that year he prophesied that Jesus was about to die for the nation, and not for the nation only, but to gather into one the dispersed children of God. So from that day on they plotted to put him to death.

11:49–53

Just as Philo applied to Joseph the motif of the Hellenistic king as an 'avertor of evils' for his subjects, it is interesting to note that John took up a similar tradition and applied it to the death of Jesus for the deliverance of others from an evil force. The characterization of Caiaphas' statement as a prophecy means that God has instigated the plot against Jesus in order to effectuate an evil-averting death for the sake of others, in order to unite the true Israelites within the Jewish nation with those outside Israel, who are identical with the "children of God scattered abroad". In the context of the Johannine narrative, these are the "sheep" who are drawn to Jesus (12:32), who belong to "this fold", that is, the fold of those who know the voice of the shepherd and follow him. Jesus had to die in order to bring them into one. "So there shall be one flock, one shepherd." Most recently, C. Breutenbach and C. Eschner have suggested that the formulas ἀποθνήσκω ὑπέρ τινος and δίδωμι in John 11:50, 18:14 and 3:16 have their background in the Greek tradition of the evil-averting voluntary death of a royal person, which warded off the destruction of his/her kinsmen or nation.⁶¹ Eschner's study makes it clear that these expressions may belong together and be stylistic variations that can be utilized by the one and the same author as different ways of expressing the same event. An illustration of this tradition which comes close to John 11:50 is attested in Cassius Dio (150–235 CE). In an address to his army, Dio has the Roman Emperor-king Otho say:

60 Lincoln 2000, 190.

61 Breutenbach 2010, 93–94; Eschner 2010, 2. 253–257, 282–283.

Surely it is far better and far more just that one should perish for all than many for one (πολὺ γάρ που καὶ κρεῖττον καὶ δικαιότερόν ἐστιν ἓνα ὑπὲρ πάντων ἢ πολλοὺς ὑπὲρ ἑνὸς ἀπολέσθαι), and that I should refuse on account of one man alone to embroil the Roman people in civil war and cause so great a multitude of human beings to perish.

Otho's soldiers are instructed to take a leave. The outcome shall be "[...] that all men may learn from the event that you chose for your emperor one who would not give you up for himself, but rather himself for you (ὅστις οὐχ ἑμᾶς ὑπὲρ ἑαυτοῦ ἀλλ' ἑαυτὸν ὑπὲρ ὑμῶν δέδωκε)."⁶² It is noteworthy that these texts, in addition to the 'deliverance for'-formula, contain Greek expressions that convey the idea that one (εἷς) should perish (ἀπόλλυμι) for all, as in John 11:50.⁶³ Against this background, it seems safe to conclude that the prophecy of 11:50 should be read in the light of 3:16 and vice versa, and that it implies that the conspiracy against Jesus has turned out to be a vehicle for the realization of God's love for the world. This means that the divine reversal inherent in the plot against Jesus is conceived by John as the divine force and agency by which God provides for the Jewish people and all men. This reminds one of Philo's interpretation of the conspiracy against Joseph in the light of God's providence.⁶⁴

John 19:10–11 is further testimony that the death of Jesus is conceived as an event which takes place under the direction of God's authority. Here the emphasis is laid on the issue of the power of the Roman governor versus that "from above": "Pilate therefore said to him, 'Do you refuse to speak to me? Do you not know that I have power (ἐξουσίαν) to release you, and power (ἐξουσίαν) to crucify you?' Jesus answered him, 'You would have no power (ἐξουσίαν) over me unless it had been given you from above [...].'" Here Jesus' reply to Pilate and John's play on the word ἐξουσία are reminiscent of John 10:18:

No one takes it from me, but I lay it down of my own accord. I have power to lay it down, and I have power (ἐξουσίαν) to take it up again. I have received this command from my Father.

⁶² Cassius Dio 63 (64).13, 1–3.

⁶³ Eschner 2010, 2. 282–283.

⁶⁴ In the treatise *In Flaccum*, Philo provides a noteworthy analogy to the idea in John 11:50–53 that the killing of Jesus is regarded as an expression of God's care for his people. Here, Philo interprets the killing of Flaccus to be proof that God provides for the Jewish people: "the help which God can give was not withdrawn from the nation of the Jews" (*Flacc.* 191).

As a shepherd-king, Jesus exercises his true power by laying down his life and taking it up again (10:18). Thus, it is clear that it is not the Roman governor who has the power to execute Jesus, but that Pilate's authority derives from God. Likewise, when Jesus lays down his own life as a shepherd-king, he does so because of the charge he has received from his Father. Thus, as Barrett put it: "the crucifixion does not contravene the authority of God but lies within its purpose".⁶⁵

4 Summary

Let me now summarize the observations made in this chapter:

1. Philo's treatise *De Iosepho* provides insight into the cultural foils and horizon of expectations behind the Johannine text, which consist of common elements from political biography, Hellenistic kingship ideology, and judicial motifs. *De Iosepho* thus provides a relevant Jewish analogy to John's way of dramatizing the story of Jesus. Drawing on elements from the literary genre of a political *bios* and the ideology of Hellenistic kingship, both authors envisage a 'conspiracy' against Joseph and Jesus respectively, which in the light of God's predetermined will brings about their elevation to kingship, which in turn provides an abundance of life and blessings to their own people and other peoples. Joseph went from being plotted against by his brothers to exaltation as a true king of Egypt. In a corresponding way, the plot against Jesus led to his exaltation as the true king.

2. Ideas from Hellenistic and Roman kingship ideology are reflected at certain key junctures in both Philo's *De Iosepho* and the Johannine narrative. It is significant that both Philo and John can be seen to have presupposed the commonplace idea in Hellenistic and Roman kingship ideology that the king or Emperor embodied the Logos of God. Likewise, both authors emphasized an ideal king's care for his people by means of motifs depicting the relationship of the king to his people as that of a physician to his patients, the king as providing nourishment for his people, the king as a shepherd, and the king as an averter of evil. Furthermore, John has a public manifestation of Jesus as a King and has him enthroned in front of the Jews as the king of the Jews, in a way that

⁶⁵ Barrett 1978, 543.

mirrors how Pharaoh appointed Joseph as viceroy of his kingdom, and installed and enthroned him almost like a “king” before the Egyptians.

3. The motif of a legal reversal in both Philo and John plays on precisely the same terms. The antagonists, who on the human level appear to plot, are themselves being investigated and judged by their protagonists, who on a divine level are conceived as representing God, the Logos, and the divine Law. Hence, the protagonists Joseph and Jesus are recognized as the instrument through whom the Logos or Divine law operated. They were not only the victims of a human plot. They were also active as agents of the divinity. Furthermore, in John, the giving of the Law at Sinai seems to provide a background for the legal conceptions of the Logos and the Light as investigator and judge, with parallels in the Pseudepigrapha and the rabbinic literature.

4. Philo's *De Iosepho* and John's Gospel both dramatize how a ‘conspiracy’ against the idealized protagonist is interpreted as a creative theodicy in which the antagonists are seen to contribute toward the realization of God's plan. In both texts, the ‘conspiracy’ has been reversed and given a contrasted meaning, so that the antagonists are themselves set under divine investigation and threatened with downfall. Without knowing the outcome, the antagonists have thus contributed to the realization of God's providence and love for human beings. In *De Iosepho*, God converted the evil schemes into an abundance of blessings, both for Joseph and for his brothers. According to Philo, Joseph, as an averter of evil, realized the ideal of a true king. In John, this motif is realized when Jesus is depicted in terms of a shepherd-king who dies the evil-averting voluntary death that warded off the destruction of his kinsmen or nation.

The Theme of Jesus' Kingship in Negotiation with Jewish Hopes and the Roman Empire

1 Thesis

In *Mos.* 1:290 and *Praem.* 95, Philo appropriates Num 24:7 LXX in contexts in which he envisages an eschatological conquest of the nations under the leadership of a 'Man' (ἄνθρωπος). While the 'Man' in *Mos.* 1:289–291 is perceived as a future king who is to rule over many nations and whose kingship will be exalted, he is mainly seen as a commander in chief in *Praem.* 95, who, if needed, will appear in the eschatological war, and bring the Hebrew people to prevail over its enemies. In the context of a Mosaic typology, this 'Man' appears to be a 'new Moses', who will bring the universal charge of the Jewish nation to a full and complete realization, far beyond what Moses was able to realize in his time.¹ Thus, Moses' and the Hebrew army's victories during the exodus were seen as past events of history that anticipated the Hebrew people's future conquest of many nations.

In this chapter, I shall argue that such 'eschatological' hopes provide a cultural context for Pilate's declaration of Jesus as the 'Man' in John 19:5. In the context of John's gospel, this serves as an ironic reversal of the mocking of a pseudo-Emperor, conveying the message that Jesus is the true king and 'Emperor' over against Caesar.

In the first place, I shall give a brief survey of research of previous proposals on the meaning of Pilate's ironic declaration of Jesus as ὁ ἄνθρωπος (John 19:5) in John 19:5. Then, I shall examine the 'eschatological' appropriation of Num 24:7 in the LXX and in Philo. Against this referential background, I shall argue that John portrays Jesus as a rival king and 'world Emperor' over against the Roman Emperor, as one who transforms and transcends the expected way in which such a 'messianic' figure would come to power. Finally, I shall draw my observations together in some conclusions.

1 On a Mosaic typology and the terminology of a 'new Moses' in early Judaism and Christianity, cf. Allison 1993, 273. When the terminology of a 'new Moses' is here applied to Philo's understanding of the 'Man' in these texts, the idea is that the 'Man' is *more* than Moses.

2 A Brief Survey of Research

In one of the most dramatic moments in the gospel, Pilate brings out Jesus, crowned and empurpled like a king, and declares to the people: “Behold the man!” (ἰδοὺ ὁ ἄνθρωπος), John 19:5. Most scholars understand the phrase ὁ ἄνθρωπος in John 19:5 as emphasizing Jesus as a wretched mock-king, apt to excite ridicule and pity.²

An alternative approach has been to understand Pilate’s acclamation theologically, in the sense that the reader recognizes that it covers a deeper meaning which goes beyond a mere statement of ridicule. In this regard, scholars in the last fifty years have presented various proposals pertaining the background of the phrase ὁ ἄνθρωπος.

One approach takes ἄνθρωπος as an abbreviation for the title ‘Son of Man’.³ R. Schnackenburg objected that the title of the ‘Son of Man’ did not fit the interest of John in the context of the trial before Pilate. Thus, according to Schnackenburg, ἄνθρωπος in 19:5 referred back to the fact that Jesus is already called ‘man’ by Pilate in John 18:29: “What charge do you bring against this *man* (τοῦ ἀνθρώπου τούτου)?” By calling Jesus ‘man’ rather than king according to the charge implied in 18:29, Pilate rejects the charge.⁴ Unfortunately, Schnackenburg did not take sufficiently into consideration the literary context of 19:14, in which Pilate explicitly entitles Jesus as king. Moreover, his objection to the ‘Son of Man’ theme associated with the ‘Man’ in John 19:4 neglects too easily what F. Moloney affirmed, viz. that John often applies one Christological title to modify and take further other titles in the course of the gospel. In the trial narrative, it is not implausible that the ‘Man’ might be seen as an expansion of the theme of Jesus’ kingship in association with the ‘Son of Man’ as well as with other royal designations previously employed in the gospel.

Another position takes the noun ὁ ἄνθρωπος as referring to the figure of Adam, made in the image of God. Scholars such as A. Richardson understand the phrase in John 19:5 to denote Christ as a new Adam, who as the first human being, is seen as the king of the whole world:

In Christ, the Son of Man, God’s intention in the creation is fulfilled. He is the new Adam, the Messianic King. Thus, we have in Pilate’s words a strik-

2 See, e.g., Bultmann 1950, 510; Haenchen 1984 181.

3 So e.g. Bultman 1950; Moloney 1978.

4 Schnackenburg 1975, 379–380.

ing example of Johannine *double entendre*; whereas Pilate might merely have meant, 'Look, here is the fellow,' his words contain the deepest truth about the person of Christ.⁵

Later on, J. Suggit elaborated on the Adamic interpretation by suggesting that the purple robe that Jesus wears recalls the lost glory of Adam, which then was restored again in Christ. Thus, according to Suggit, Jesus is depicted as "the new man, revealing what God intended man to be."⁶ Most recently, M.D. Litwa has offered a theological interpretation of John 19:5, in the light of two proposed intertextual echos attested in Gen 3:22 and *L.A.E.* 13:3, which suggests a reversal of the figure of Adam interpreted in these texts:

In both cases, the man who is divine and godlike is in reality frail and mortal. For Jesus in John 19:5, the situation is just the reverse. To outsiders (the Jewish and Roman leadership) "*Behold the man!*" presents a broken individual, weakened and unable to avoid a violent death. On the deep structure level, however, Jesus is being presented as the sovereign king who can lay down his life and take it up at will. [...] This reverse irony, I propose, suggests a purposeful echo. If we have here the sign of a deliberate echo, we may conclude that the Fourth Evangelist uses the phrase "Behold the man!" to create a contrast between Adam and Christ.⁷

While I concur in general with the line of thought that sees a reversal of an intertextual echo implied on a 'deep structure level' of meaning in John 19:5, my main objection to the Adamitic interpretation is the lack of sufficient thematic coherence between the alleged precursor texts and John with regard to the idea of Adam as a prefiguration of Christ.

We should note three other suggestions by scholars about how ὁ ἀνθρώπος should be understood against an Hebrew Bible background. First, according to A.T. Hanson, Isaiah 53:3b is a candidate for an Old Testament text which might have inspired John's use of the *Ecce Homo* motif. This text which reads, "a man who had been beaten and who knew how to bear weakness, because his face turned away, he was dishonored and not considered", fits in Hanson's view with the portrayal of Jesus as the Suffering Servant in John.⁸ Thus, Hanson maintains that the portrayal of a scourged and dishonored Jesus "exactly fits" this picture

⁵ Richardson 1959, 197.

⁶ Suggit 1983, 334.

⁷ Litwa 2010, 142.

⁸ Hanson 1991, 205.

of the servant in Isa 53:3b. My main objection to this view is that it does not fit well with the opposite position on this scene, viz. that Jesus is here mocked as a pseudo-Emperor, who is hailed and honored by the Roman soldiers.

Second, D. Bieter has suggested that 1 Samuel 9:17 LXX (“Behold the Man [Ἴδου ὁ ἄνθρωπος] about whom I spoke to you. He will rule among my people”), referring to King Saul, may lie behind John 19:5. According to Bieter, in the context of 1 Samuel, Saul is both depicted as a ‘Man’ and a king, which fits with the presentation of Jesus as king in John 19. The thematic coherence between the texts is then proposed: just as Israel rejected YHWH as king in favor of Saul, so they reject Christ in exchange for King Caesar. This idea about 1 Samuel 9 as background seems very unlikely, since Saul is definitely not a positive model in comparison with Christ. Moreover, as with Hanson’s proposal, this view seems in general to be insufficient as an explanation of some other important thematic features in the Johannine context of 19:5.

Third, and more plausible, is W.A. Meeks’ proposal that Pilate may be presenting Jesus under an ‘eschatological title’ reflected in the LXX and Hellenistic Jewish sources. In his analysis of John 19:5, Meeks recognized the parallelism between Pilate’s declaration of Jesus as ‘Man’ in 19:5 (Ἴδου ὁ ἄνθρωπος) and as “king” in 19:14 (Ἴδε ὁ βασιλεὺς ὑμῶν), and between the dramatic structure of the two scenes 19:4–7 and 19:13–16. In each scene, the presentation of Jesus, clad in the garb and crown of a king, is followed by a solemn proclamation by Pilate and a negative response on the part of the Jews. This led Meeks to affirm that: “The dramatic structure of the two scenes only makes sense if ‘the Man’ is understood as a title, a throne-name given to the ‘King of the Jews.’”⁹ Hence, Meeks suggests that ἄνθρωπος might allude to an ‘eschatological title’ in Hellenistic Judaism: “There is evidence that ‘Man’ was an eschatological title at least in Hellenistic Judaism. Chiefly certain alterations in the Septuagint in comparison with the Masoretic text point in this direction.”¹⁰ Meeks’ first evidence is in Zechariah 6:12. In the Septuagint Joshua Zerubbabel as the ‘Man’ (ἀνὴρ) who is crowned is called ‘Branch’ (Ἀνατολή), which was a title of the Davidic king. This throne-name, Meeks suggested, was played on in the following verb (ἀνατελεῖ) in the Greek text, and he took this verb to be connected with the alteration of Num 24:17 in its Greek version: “a star shall dawn out of Jacob, and a man shall rise up out of Israel” (ἀνατελεῖ ἄστρον ἐξ ἑξ Ἰακώβ καὶ ἀναστήσεται ἄνθρωπος ἐξ ἑξ Ἰσραήλ). The evidence provided by Num 24:17 LXX and its inclusion of ἄνθρωπος led Meeks to comment as follows on Num 24:7 LXX:

9 Meeks 1967, 70.

10 Meeks 1967, 70.

The insertion of ἄνθρωπος without any basis in the Hebrew is also the most conspicuous feature of the Greek version of Numbers 24.7, which differs in other respects as well from the Masoretic text. The latter passage is quoted by Philo in a description of the eschatological warfare between Israel and recalcitrant members of the rest of mankind—the only clearly eschatological passage in all Philo's writings.

In addition to the texts mentioned above, Meeks also refers to the eschatological expositions of Num 24.17 in *T. Jud.* 24.1 and in the Qumran texts. Meeks' conclusion is formulated as follows:

An investigation into all the evidence for the expectation of an eschatological ἄνθρωπος lies far beyond the scope of this inquiry. However the instances which have been cited from Jewish documents alone are sufficient to support the contention that Pilate's announcement, "Behold the man!" is to be understood as the proclamation of a title. John 19.4–5 depicts a significant stage in the installation of the eschatological king.¹¹

Meeks' suggestion about understanding ἄνθρωπος in John 19:5 has received both consent and objections. Thus, R. Brown regards Meeks' contention that 'Man' was an eschatological title in Hellenistic Judaism as tenable.¹² Schnackenburg objects to Meeks' idea; he maintains that the 'Man' in Zech 6:12 was designated ἀνὴρ rather than ἄνθρωπος, and that the latter term was not to be seen as a title in the Jewish texts consulted by Meeks, but merely as an expression referring to a person who has a messianic function.¹³

I concur with Schnackenburg's objections regarding Zech 6:12 and ἄνθρωπος as perceived as a 'title'. This makes me reluctant to see ἄνθρωπος in John 19:5 as an 'eschatological title'; it is more plausibly understood as a potential allusion to a biblical phrase, which, however, could be readily understood as a reference to a 'messianic' figure. I do not, however, agree with Schnackenburg's main objection that the evidence for Meeks' proposal of a reference to an 'eschatological king' seems too weak, and, "that it would certainly be expecting too much that the readers understood this."¹⁴ Schnackenburg too easily excludes the possibility that some of the data that Meeks pointed to may actually substantiate the suggestion that ἄνθρωπος in John has a royal connotation

11 Meeks 1967, 72.

12 Brown 1970, 2.876.

13 Schnackenburg 1975, 380–381.

14 Schnackenburg 1980, 3.257.

with eschatological overtones. As Meeks admits, an “investigation into all the evidence for the expectation of an eschatological Ἀνθρῶπος lies far beyond the scope of this inquiry.”¹⁵ The present chapter is meant as a contribution to such a study. Notwithstanding the proposal set forth by Meeks, the evidence provided by Num 24:7 LXX and Philo’s exposition of this text has been passed over in Johannine scholarship, and hence should be given a more central place in the discussion of the *Ecce Homo* motif in the literary context of John 19:5.

3 The Reception of Num 24:7 in the LXX

Num 24:7 belongs to Balaam’s third oracle (Num 24:3–9). The oracle, after an opening emphasizing Balaam’s ability to mediate the divine words and visions (vv. 3–4), gives a description of Israel’s present situation (vv. 5–6), and then depicts the people’s future prosperity and success in victory against the nations under the double leadership of God and their own king (vv. 7–8). The oracle concludes with a comparison of Israel as a lion and with the assertion of her future blessing (v. 9). The Hebrew text of Num 24:7 within Balaam’s third oracle reads:

וְזֵל־מַיִם מִדִּלְיוֹ וְזֶרְעוֹ בְּמַיִם רַבִּים וְיָרֵם מֵאֲגָג מִלְכּוֹ וְתִנְשֵׂא מַלְכָּתוֹ

The NRSV translates:

Water shall flow from his buckets,
and his seed shall have abundant water,
his king shall be higher than Agag, and his kingdom shall be exalted.

The Greek version renders Num 24:7 as follows:

ἐξελεύσεται ἄνθρωπος ἐκ τοῦ σπέρματος αὐτοῦ
καὶ κυριεύσει ἐθνῶν πολλῶν
καὶ ὑψωθήσεται ἡ Γῶγ βασιλεία αὐτοῦ
καὶ ἀύξηθήσεται ἡ βασιλεία αὐτοῦ

Scholars have discussed whether this text lends itself to an eschatological or even a ‘messianic’ interpretation. The major question connected with Num 27:4

¹⁵ Meeks 1967, 72.

LXX is whether the term ἄνθρωπος is employed messianically. Since the issue is complicated, and bearing in mind the main object of this study, I will limit my discussion to some relevant considerations, as a prelude to my comments on Philo's use of Num 24:7 LXX.

The point of departure for the further considerations on Num 24:7 LXX will be J. Lust's view that ἄνθρωπος does not carry any clear messianic overtones. Lust's arguments are threefold: First, it is a neutral term without messianic connotations, which does not receive any emphasis and seems to refer in a neutral sense to "someone", expressing an implicit subject in the Hebrew text. According to Lust, the translator may have read הוּא as a form of the Aramaic verb הוּא, "to go", and then rendered explicit the subject ἄνθρωπος. According to this interpretation, Lust maintains that "the Greek 'man' does not receive any emphasis. It is only the explicit expression of the implicit subject in the Hebrew."¹⁶

Second, this reading of ἄνθρωπος in the Greek text may be corroborated by the fact that it did not occur in the Greek version quoted by the early Christians.

Third, Lust sees Philo's use of the term as a confirmation of the ambiguous notion of ἄνθρωπος, denoting elsewhere in LXX "mankind", e.g., in Gen 1:26 and Eccl 7:29. Philo is the sole early external attestation of ἄνθρωπος, in the two texts in which it appears, viz. *Mos.* 1:290 and *Praem.* 95. Lust does not comment on the first text, except to remark that "it offers a lengthy report of the story and the oracles of Balaam."¹⁷ He considers the latter text to be "part of one of the rare (if not the only) texts in which Philo vaguely announces a future messianic time."¹⁸ However, since Philo avoids clear-cut messianic notions, Lust infers that "this makes it *a priori* probable that the 'man' envisaged in it, has no royal messianic connections."¹⁹ For Lust, the 'man' in *Praem.* 95, who in the context is opposed to the wild animals and brutes, refers only to "mankind" as created by God and destined to subdue the world.²⁰ These claims can be evaluated, however, as evidence in favor of the opposite view, that the 'Man' envisaged in Num 24:7 may already have been associated with royal 'messianic' or eschatological connections.

First, a general comment on Lust's exegesis in terms of his method. M. Rösel and A. van der Kooij criticize Lust for his atomistic reading of the text by a

¹⁶ Lust 1997, 43.

¹⁷ Lust 1995, 246.

¹⁸ Lust 1995, 246.

¹⁹ Lust 1995, 246.

²⁰ Lust 1995, 246.

word-for-word procedure, neglecting to approach and interpret the text sufficiently on a clause- and sentence-level within the broader and the immediate surrounding context. This means that Lust's choice of method has a disadvantage over against the messianic reading of the text.²¹

Second, in the second part of Num 24:7 LXX, line three reads καὶ ὑψωθήσεται ἡ Γῶγ βασιλεία αὐτοῦ. The historical king Agag in the Hebrew text, the Amalekite king killed by Samuel according to 1Sam 15, is replaced by the translator by the eschatological king Gog, who dominates the apocalyptic scene in Ez 38–39. As Lust himself admits, the translation of Agag as the eschatological Gog “turns the oracle as a whole into a prophecy about final days.”²² Moreover, as Lust also notes, the same reading is attested in the Samaritan Pentateuch, which may imply that the oracle is turned into an eschatological promise. The use of the future tense in the main verbs employed in the text also supports this impression of an eschatological future. Moreover, in its literary context, the indication of time in Num 24:14 LXX “in the last of the days”, even if it agrees with the Hebrew text, seems to indicate a future, if not an eschatological, perspective.

Third, in opposition to Lust's view, the reference to the eschatological Gog is not the only feature of the entire text of Num 24:7 LXX which may have directly promoted a messianic interpretation. Thus, J.J. Collins finds in the expression βασιλεία αὐτοῦ another messianic clue: “Further, the man is now the natural antecedent of “his kingdom”, in the third line of the verse. [...] Nonetheless, a figure who has a kingdom can reasonably be assumed to be a king.”²³ Moreover, even if it is not explicitly said in Num 24:7 LXX that ‘Man’ (ἄνθρωπος) is a king, this may be implied, on the basis of the two possible meanings of the term βασιλεία. It is well known that the Greek word βασιλεία is derived from βασιλεύς, and has two basic lexical meanings:²⁴ (1) It can be employed as a verbal noun or *nomen actionis* and denote the act of ruling. Hence, it can be translated “kingship”, “royal rule”, or “reign”, referring to the position or activity of a king. This is often called the abstract or dynamic meaning of the word. (2) The word βασιλεία can also mean “kingdom”, i.e., the realm ruled by a king, his territory or the community under his rule. This is called the concrete or static meaning of the word. Against this background, a plausible translation of lines three and four might be: “and his kingship shall be exalted over (that of) Gog, and his kingdom shall be increased.” This ambiguous translation is corroborated by the circumstance that line three in the Hebrew text reads “his king” and not

21 Rösel 2006, 171; van der Kooij 1998, 214–229.

22 Lust 1997, 43.

23 Collins 2006, 144.

24 Danker 2000, 168; Kvalbein 2003, 216.

kingship. In the context of the Greek text, such a translation is also consonant with the view that the exalted position and reign of the 'Man' is contrasted with the kingship of the eschatological enemy Gog, while the notion of kingdom in line four seems to be appropriate when it indicates in a concrete way that the realm of the king shall be increased. Moreover, the notion of how the kingship of the 'Man' will be "exalted over Gog" is also in accordance with the idea in the preceding line that he shall rule (κυριεύω) over many nations. As Lust observes, in Numbers κυριεύω is attested only in one other passage, where the kings of the nations are its subject (21:18).²⁵ In any case, the important point is that the translation of βασιλεία in LXX serves to portray the 'Man' (ἄνθρωπος) as an eschatological and royal figure, by referring to his future achievements as a king with a kingdom that will be enlarged.

Finally, Lust's inference that Philo's eschatological use of Num 24:7 "makes it *a priori* probable that the 'man' envisaged in it has no messianic connections", seems to me a highly problematic and a biased statement, which has neglected, as Collins remarks, the fact "that the man functions in the same way that the messiah functions in other texts of the time."²⁶ To bolster that argument, it is time to turn to an analysis of Philo's reception of Num 24:7 LXX.

4 The Reception of Num 24:7 LXX in Philo

4.1 Introduction

As a background for the analysis of the use of Num 24:7 LXX in Philo's writings, it would first be helpful to define what I mean by 'eschatology' and 'messianism'. 'Eschatology' will be defined as the age to come, as perceived within the framework of history, with the expectation that this will arrive at a preordained stage in the progress of history.²⁷ It is above all the many similarities between *De Praemiis et Poenis* and other Jewish 'eschatological' texts that indicate that 'eschatology' plays an integral role in Philo's thinking and writings.²⁸ As for the concept of 'messianism', I shall assume the definition recently proposed by J.J. Collins:

²⁵ Lust 1995, 237.

²⁶ Collins 2006, 144.

²⁷ Cf. e.g. Grabbe 2000, 163–185 and Hay 2001, 378, for this definition of 'eschatology'.

²⁸ See Hartman 1966, 23–50; Collins 2002, 93–108; Bekken 2007, 115–152, for a comparison of Jewish eschatologies and Philo's *De Praemiis et Poenis*. It is a presupposition of this study that Philo's 'eschatology' must be placed within a wide spectrum of Jewish eschatologies and that first-century Judaism was not a monolithic entity.

By messianism I mean the expectation of a figure who will act as God's designated agent in the eschatological time. Messianism, as distinct from the broader phenomenon of eschatology, is focused on the expectation of a particular figure or figures. These figures are not necessarily designated by the term משיח or translation equivalents (χριστός, משיח), but recognized as filling the same functions as figures who are so designated.²⁹

In a study of *Mos.* 1:289–291 and *Praem.* 93–97 in their literary contexts, P. Borgen reached the following conclusion:

The conclusion is this: without using the term 'Messiah', Philo looks for the possibility of a (non-Davidic) Messiah to come in the form of a 'Man', who is seen as a final commander-in-chief and emperor, of the Hebrew nation as the head of the nations.³⁰

Borgen's study has in general received support from a number of scholars.³¹ L.L. Grabbe, however, objects to Borgen's juxtaposition of these two texts and his conjunction of the texts into a single composite figure: "Instead of reading each passage in context, Borgen has conflated the two different texts—taking them out of context—to produce a single composite figure. Philo nowhere suggests such a composite figure; it is Borgen's creation, not Philo's."³² In support of Borgen's thesis, however, it can be argued that Grabbe does not take sufficiently into account a common coherent hermeneutical perspective in the texts. In fact, both Borgen and Grabbe neglect the fact that Philo operates within the framework of a Moses-typology in both texts, which means that the 'eschatological' figure of a 'Man' was expected to be a warrior king in terms of a 'new Moses', who would re-enact the events of the exodus and lead the people of God to victory over the nations. Hence, the 'eschatological' view of *Mos.* 1:290, depicting a future reenactment of the exodus and the fulfillment of the hope of Israel's conquest of the nations under the leadership of the 'Man', is presupposed and affirmed in *Praem.* 93–97.

I shall proceed as follows: I begin with a look at each passage in its literary context, charting its thought development. Then, I shall highlight some features that suggest an exodus typology as a referential frame behind the

²⁹ Collins 2006, 130.

³⁰ Borgen 1992, 341–361.

³¹ See e.g. Oegema 1994; Hayward 1999; Schreiber 2000; Bekken 2007.

³² Grabbe 2000, 171.

texts. Thereafter, I turn to the imagery of the 'Man' as warrior king seen in terms of a Roman *Imperator*. Finally, I round off this section with a summary.

4.2 *An Analysis of Mos. 1:288–291 and Praem. 93–97*

4.2.1 Relation to the Literary Context

First, some remarks on the literary context of *Mos.* 1:288–291. As Hayward has shown, Philo has compressed the cycle of four oracles of Balaam concerning Israel (Num 23:7–10, 18–24; 24:3–9, 15–19) in the Bible to three (*Mos.* 1:278–279, 283–284, 289–291). The oracles thus refer to Israel's origin in the past (*Mos.* 1:279), the present situation of being blessed (*Mos.* 1:284, 289), and her future status as victorious over the nations (*Mos.* 1:290–291). As we will observe below, all these aspects of past, present, and future of Israel find expression in Philo's interpretation of the third oracle. In its broader context, as Borgen has shown, the third oracle needs to be seen in the light of Moses' role of king and the Exodus story outlined in the preceding text of *Mos.* 1, which relates how Moses gave up the hegemony of Egypt, to which he was a heir, and how God recompensed him with the kingship of a nation more populous and mightier than Egypt, "a nation destined to be consecrated above all others to offer prayers for ever on behalf of the human race that it may be delivered from evil and participate in what is good" (*Mos.* 1:149). God judged him worthy to appear as his partner and gave into his hands the whole world as his portion (*Mos.* 1:155–157). In Philo's elaboration of the exodus story, he emphasizes Moses' 'divine' and 'heavenly' kingship and the call to Israel to be superior to other peoples. When Israel marched as a military army from Egypt through the desert and came to a land they proposed to settle, they entered into confrontations with the people who occupied the area. In their encounter with the Phoenicians, the superior role of the people over against other nations and the universal kingship of Moses as their commander-in-chief were revealed: Moses ran to the neighboring hill, and besought God to shield the Hebrews and give a triumphant victory. Then, when Israel was about to engage in the fight, his hands became very light and very heavy in turns. Whenever his hands arose, the Hebrews were strong, but whenever his hands were weighed down, the enemy prevailed. By these symbols, God showed that the lower regions of the earth were the portion assigned to the one part in the combat, while the holiest region was assigned to Israel. Just as heaven holds kingship in the universe and is superior to the earth, so this nation would be victorious over its opponents in war (*Mos.* 1:217). After some more successful victories over the Canaanites (*Mos.* 1:250–255) and the Amorites (*Mos.* 1:258–262), Philo has reached the story of the confrontation which took place with Balak and his people.

Balaam's View of the Hebrew Army (Mos. 1:288)

So setting his face to the wilderness,
he looked upon the Hebrews encamped in their tribes, and,
astounded at their number and order
which resembled a city rather than a camp,
he was filled with the spirit and spoke as follows

Balaam's Visionary Presentation (Mos. 1:289a)

Thus saith the man who truly sees,
who in slumber saw the clear vision of God
with the unsleeping eyes of the soul.

Praise of the Hebrew Army (Mos. 1:289b)

How goodly are thy dwellings, thou army of the Hebrews.
Thy tents are as shady dells,
as gardens by the riverside
as a cedar beside the waters.

The Appearance of the 'Man' as Emperor (Mos. 1:290a)

There shall come forth from you one day a man,
and he shall rule over many nations
and his kingship/kingdom spreading every day shall be exalted on high.

Divine Guidance and Reinforcement of the Conquering Nation (Mos. 1:290b–91a)

This people, throughout its journey from Egypt,
has had God as its guide, who leads the multitude in a single column.
For that very reason, it shall eat up many nations of its enemies
and take the fatness of them right up to the marrow,
and destroy its foes with its far-reaching bolts.

The Conquering Nation as a Lion (Mos. 1:291b)

It shall lie down and rest as a lion,
or a lion's cub,

full of scorn, fearing none but putting fear in others.
Woe to him who stirs up and rouses it.

Blessing and Curse (Mos. 1:291b)

Worthy of benediction are those who bless thee;
worthy of cursing those who curse thee.

The text goes on to describe how Moses selected the best of his men of a military age, one thousand from each tribe. The Hebrew soldiers won the battle against their opponents and returned safe, without a single one killed or even wounded (*Mos.* 1:306–311). In the analysis below, I will examine in more detail Philo's use of Num 24:7 in both this broader context of Moses' universal kingship and the immediate context of Philo's expository paraphrase of the third oracle (Num 24:3–9) in *Mos.* 1:288–291. I now give an outline of the context of *Praem.* 93–97, in which Num 24:7 has been applied.

I begin with a brief note on the context and line of thought of *Praem.* 93–97. In *Praem.* 85–97, Philo develops the blessing theme of victory over the enemies from *Praem.* 79. In *Praem.* 85–91a, Philo describes the victory as of two kinds, i.e. victory over the wild beasts and victory in the war within the human being himself. In *Praem.* 91b–97, Philo depicts the victory over human beings on the basis of a concrete understanding of Lev 26:6 and other Jewish Scriptures. On the one hand, the victory will never be won through war (cf. Lev 26:6), because the enemy will dissolve and fall to pieces when they recognize the nature and virtues of their opponents. Here in *Praem.* 93, Philo clearly states that the eschatological victory might be won by peaceful means. On the other hand, in *Praem.* 94–97, Philo speaks of the alternative of combats and intervention by God in history. For if war arises and some attack, they will be defeated. The defeat can take place in various ways:

1. The enemy will be forced back by the superior strength of the Jewish nation (cf. Lev 26:8 and Deut 28:7):

Either, then, as he says, the war will not pass through the land of the godly at all, but will dissolve and fall into pieces of itself when the enemy perceives the nature of their opponents, that they have in justice an irresistible ally [...].

Praem. 93

2. Some will flee due to fear caused by the military leader, *Praem.* 95. In this context, Num 24:7 is quoted and elaborated upon:

a. Victory by superior strength:

Or if some fanatics whose lust for war defies restraint or remonstrance come careering to attack, till they are actually engaged, they will be full of arrogance and bluster, but when they have come to a trial of blows they will find that their talk has been an idle boast. Win they cannot. Forced back by your superior strength, they will fly headlong, companies of hundreds before handfuls of five, ten thousands before hundreds by many ways for the one by which they came.

Praem. 94

b. Some stricken by fear:

Some, without even any pursuer save fear, will turn their backs and present admirable targets to their enemies so that it would be an easy matter for all to fall to a man. For, “there shall come forth a man”, says the oracle, and leading his host to war he will subdue great and populous nations, because God has sent to his aid the reinforcement which befits the godly, and that is dauntless courage of soul and all-powerful strength of body, either of which strikes fear into the enemy, and the two if united are quite irresistible.

Praem. 95

3. Other enemies are described as unworthy to be defeated by human beings. These will be conquered by swarms of wasps (cf. Exod 23:28; Deut 7:20):

Some of the enemy, he says, will be unworthy to be defeated by men. He promises to marshal against them to their shame and perdition swarms of wasps to fight in the van of the godly [...].

Praem. 96

In *Praem.* 97, Philo concludes that the victorious people also will rule over their enemies after the war.

4.2.2 The Typology of the Era of Moses and the Exodus Events
Features in both texts support the view that Philo looked forward to an eschatological re-enactment of the era of Moses. As already mentioned, Philo’s inter-

pretation of the prophecy of Bileam about the 'Man' (Num 24:7) is located within the context of the description of the era of Moses as king, and primarily as a warrior king. In such a context, Philo's 'eschatology' is conceived within the framework of a typology and a correspondence between the victories of the Hebrew people under Moses as a warrior king during the exodus and its future conquest of the nations. Thus, he portrays a 'new Moses', a future king who is to prevail and rule over many nations, who shall bring to complete fulfillment what Moses temporarily realized during the exodus.

In *Mos.* 1: 290–291 God's reinforcement of the people during the exodus is conceived as a prototype for the people's victory in the future encounters with many nations. The connection between the past and future events is emphasized by Philo's adding of τοιγαροῦν ('therefore') as an inferential particle: ὁ λαὸς οὗτος ἡγεμόνι τῆς ἀπ' Αἰγύπτου πάσης ὁδοῦ κέχρηται θεῷ καθ' ἓν κέρας ἄγοντι τὴν πληθύν. τοιγαροῦν ἔδεται ἔθνη πολλὰ ἐχθρῶν [...] ("The people has used God as leader on the whole journey from Egypt, God who leads the multitude (as an army) in (the marching order of) a single column; *therefore*, it shall eat up many nations [...]").³³ Here, the motif of God's unicorn, which has been interpreted as God's leading of Israel as an army in a single column, is used as a description of Israel. The ambiguous Num 24:8 LXX lends itself to this exposition: God brought *him* out of Egypt and *he* (perceived as Israel) has a unicorn's glory. The same symbol of the unicorn appears in *Praem.* 95, but this time in the form of a "spiritualized interpretation" referring to God's powerful aid to the 'Man' as the reason for his victory over the nations:

For "there shall come forth a man", says the oracle, and leading his army and doing battle, he will subdue great and populous nations, because God has sent to his aid the reinforcement which befits the godly, and that is dauntless courage of soul and all-powerful strength of body, either of which strikes fear into the enemy and the two if united are quite irresistible.

The future aspect is emphasized in *Mos.* 1.290–291 by Philo's temporal location of the 'Man' in the future, by adding the adverb ποτέ to Num 24:7 LXX: ἐξελεύσεται ποτε ἄνθρωπος ("there shall come forth *one day* a man"). In this way, Philo points to a future time which is distinguished from and goes beyond the present conflict with Balak. A comparison of *Virt.* 34–48 and *Praem.* 93–97 adds further evidence of Philo's conviction that the exodus events of the past serve as

33 The translation is that of Borgen 1997, 270.

a prototype and assurance of the complete fulfillment of the blessings in the future.³⁴ In *Virt.* 34–48, Philo describes the wars in which the Hebrews prevailed during the exodus under the leadership of their king Moses, on the basis of Num 25:1–18 and Num 31:1–18. *Virt.* 47 reads:

Therefore, he says in his Exhortations, If you pursue justice and holiness and the other virtues, you shall live a life free from war and in unbroken peace, or if war arises, you shall easily overcome the foe under the invisible generalship of God, who makes it His care mightily to save the good.

In *Virt.* 47, as in and *Praem.* 95, the Hebrew army is led by a warrior leader. The same expression is used: στραταρχέω, “to command an army”. In *Virt.* 47, God is the commander in chief, while in *Praem.* 95, the warrior leader, who is a king, is the commander-in-chief and the ‘Man’, based upon the oracle of Num 24:7: “For, ‘there shall come forth a man’, says the oracle, and leading his host to war he will subdue great and populous nations [...]”. As Borgen put it: “This double leadership corresponds to the double leadership of God and Moses during the exodus, with Moses’ kingship derived from that of God (cf. *Mos.* 1:149–150).”³⁵ According to *Virt.* 47, the victory demonstrated the blessings of Deut 28:1, 2 and 7, and Lev 26:6. On the basis of these observations, we can draw some conclusions with regard to *Praem.* 93–97: Since in *Virt.* 34–48, the victory in the war with Balak served as the basis of the words of Moses about the blessing of peace or victory in war (cf. Deuteronomy 28:1–2, 7 and Leviticus 26:5), this victory is also presupposed as the background for the use of the same biblical words in *Praem.* 93–97. The exodus events of the Hebrew people in the war with Balak, which included the prophecy about a future king, served as the basis for Moses’ words in Deuteronomy 28 and Leviticus 26 about the blessings of peace or victory in war, and were seen as a pointer to the future realization of these blessings and to the things that were still to take place. Accordingly, when Philo in *Praem.* 93–95 draws on the words of Deut 28:1, 7 LXX, Lev 26:7 LXX, and Num 24:7 LXX, he pictures a Hebrew king in terms of a ‘new Moses’, who will complete the universal blessings and the universal and victorious role of Moses and the Hebrew nation in its relationship to the other nations.

34 This line of reasoning also finds some support in *Mos.* 2:288: “Then, indeed, we find him [Moses] possessed by the spirit, no longer uttering general truths to the whole nation but prophesying to each tribe in particular the things which were to be and hereafter must come to pass. Some of these have already taken place, others are still looked for, since confidence in the future is assured by fulfillment in the past.”

35 Borgen 1997, 274.

In the following section, we take a closer look at features which give an impression of the 'Man' pictured as a warrior king and *Imperator*.

4.2.3 The Imagery of a Warrior King and *Imperator*

As we noted above, Lust employed Philo's exposition of Num 24:7 as evidence for his non-messianic reading of Num 24:7 LXX. He concluded on the basis of *Praem.* 95 (he only quotes the text in *Mos.* 1:290, with no further elaboration) "that the 'man' envisaged in it has no royal messianic connotations."³⁶ He interpreted the 'Man' in the light of the context as a reference to "mankind" in Gen 1:28, created by the Lord and destined to subdue the world. However, a closer scrutiny of Philo's expository paraphrase of Num 24:7 in the literary contexts of *Mos.* 1:290 and *Praem.* 95 will display an alternative interpretation to that proposed by Lust. The military terminology employed by Philo in these contexts will attest that he envisaged the 'Man' as an individual, depicted as a warrior king and an *Imperator* who would lead Israel to victory in their future encounter with the nations. This picture can be elicited from Philo's paraphrase of Num 24:1–9, in which some distinctive emphases can be observed:

In his paraphrase of Num 24:1–2, Philo emphasizes the military organization of Israel's camp in the wilderness: "So setting his face to the wilderness, he looked upon the Hebrews encamped in their tribes, and, astounded at their number and order, which resembled a city rather than a camp (ὡς πόλεως ἀλλ' οὐ στρατοπέδου) [...]" (*Mos.* 1:288). The noun *στρατόπεδον* shows that Philo held that the Hebrews were organized as a military camp. In the elaboration on Num 24:5 (*Mos.* 1:289), he explicitly states that they were like an army (*στρατία Ἑβραίων*). Moreover, the motif of God's unicorn (*μονοκέρωτος*) in Num 24:8, which has been interpreted in *Mos.* 1:290 about God's leading of Israel as an army in a single column, is a further example of military terminology. Here Philo reads *μονοκέρωτος* to mean *ἐν κέρασ* and reads *καθ' ἐν κέρασ ἄγοντι*. The expression *κατὰ κέρασ ἄγειν* is a technical phrase for leading an army in marching order as a column or wing.³⁷

The military description is developed in Philo's exposition of Num 24:7 about the future royal warrior king who shall rule over the nations, and whose kingdom shall be thereafter exalted and increased. In *Praem.* 95 Philo states that the victory, if necessary, will be won through a battle. Some of the enemies will even flee when no one pursues at all except fear, turning their backs on the

³⁶ Lust 1995, 246.

³⁷ Cf. Xenophon, *Cyr.* 1.6.43; LSJ 1940, 1913.

enemy, so as to afford a full mark for shooting, so that it will be very easy for the whole army to fall, with every one of them slain. However, Philo stresses that the enemies will flee because of their fear of the military leader, as we see in his expository paraphrase of the first part of Num 24:7:

“ἐξελεύσεται γὰρ ἄνθρωπος”, φησὶν ὁ χρησμός, καὶ στραταρχῶν καὶ πολεμῶν ἔθνη μεγάλα καὶ πολυάνθρωπα χειρώσεται [...] (for there will come forth a man, says the oracle, and leading his army and doing battle, he will subdue great and populous nations [...]).

Praem. 95

The words in bold type are Philo's interpretative supplements to the words from LXX. Here the military terms στραταρχέω, “to command an army”, and πολεμέω, “to battle”, are ascribed as attributes to the ἄνθρωπος, depicting the ‘Man’ as a commander in chief or *imperator* who would appear in the eschatological war. A corresponding martial imagery of the ‘Man’ appears in *Mos.* 1:290. A comparison of Num 24:7 LXX and Philo's version of this scripture in this paragraph can be set out (the paraphrase which adds to or alters the Greek text is indicated by the words in italics):

- LXX: ἐξελεύσεται ἄνθρωπος ἐκ τοῦ σπέρματος αὐτοῦ
(There shall come forth from his offspring)
- Philo: ἐξελεύσεται ποτε ἄνθρωπος ἐξ ὑμῶν
(There shall come forth from *you one day* a man)
- LXX: καὶ κυριεύσει ἐθνῶν πολλῶν
(and he shall rule over many nations)
- Philo: καὶ ἐπικρατήσει πολλῶν ἐθνῶν
(and *he shall conquer* many nations)
- LXX: καὶ ὑψωθήσεται ἡ Γὼγ βασιλεία αὐτοῦ
(and his kingship shall be exalted beyond Gog)
- Philo: καὶ ἐπιβαίνουσα ἡ τοῦδε βασιλεία καθ' ἐκάστην ἡμέραν
(and his kingdom *advances every day*)
- LXX: καὶ αὐξηθήσεται ἡ βασιλεία αὐτοῦ
(and his kingdom shall be increased)
- Philo: πρὸς ὕψος ἀρθήσεται.
(and *shall be exalted to height.*)

Let me offer three comments: 1. Philo distinguishes between the “Man” as the offspring and “you”, i.e. the Hebrew people. Hence, the ‘Man’ is described as an individual separate from the Hebrew people, as their commander-in-chief.

2. He shall conquer (ἐπικρατήσει) the nations, rather than exercise lordship (κυριεύσει); this suggests an extension of his kingship/kingdom through victory in an armed combat.

3. One small detail underlines this imagery of the 'Man' as a military commander, pictured almost like a Roman general exercising imperium in warfare: by omitting the reference in LXX to the eschatological enemy King Gog, Philo reinforces the impression that the 'Man' is a conqueror of many nations, without mentioning any particular enemy. Thus, although the term 'Messiah' is not used, the 'Man', as the eschatological king of many nations, bears the features of a royal figure in accordance with a 'messianic' interpretation of Num 24:7 LXX elsewhere in early Judaism.³⁸ Philo's portrait of the 'Man' primarily as a warrior king seems to have as its background the Mosaic typology referred to above. I now turn to some other features that evoke an imagery which allows for a further characterization of the identity of the 'Man' inscribed as a Roman Emperor.

P. Borgen describes the 'Man' in Philo's writings as imperial: "without using the term 'Messiah', Philo looks for the possibility of a (non-Davidic) Messiah to come in the form of a 'Man' who is seen as a final commander-in-chief and emperor of the Hebrew nation as the head of the nations."³⁹ As C.T.R. Hayward has pointed out, Borgen's thesis of a 'messianic Emperor' finds support in a closer scrutiny of some details in the immediate literary context of *Mos.* 1: 288–291, recalling features from an imperial context.⁴⁰ Hayward argues that Philo applies the lion imagery based on his exposition of Num 23:24 and 24:9 in both *Mos.* 1:284 and 1:291, to evoke and encapsulate Israel's destiny as a victorious people. In the second oracle, Balaam prophesied that God would be like a shield to Israel, scattering the fierce onset of the ills of Egypt and bringing it up from Egypt as a single man. For this reason, Balaam predicted that Israel as the outcome of its encounter with Balak would be a victorious people, rising like a lion to sing the victory hymn:

38 The use of the Septuagint version of Num 24:7 in various writings indicates that this tradition had a considerable influence in early Jewish milieus. See Vermes 1961, 159 ff.; Meeks 1967, 71–72; Neusner 1984, 241–247; Hengel 1989b., 655–656; Riesner 2000, 250; Evans 2006, 29. Collins (1995, 63) and Pike (1996, 183 n. 46) both remark erroneously that Philo in *Praem.* 95 interprets Num 24:17 LXX. Although this text too can be interpreted in a messianic way in first-century Judaism, Philo's writings nowhere attest this exegetical tradition.

39 Borgen 1997, 276.

40 Hayward 1999.

I see the people rising like a lion's cub, and like a lion exulting: he shall eat his fill of prey and take for drink the blood of the wounded; and when he is satiated he will not turn to sleep, but unsleeping he will sing the hymn of victory, ἐργηγορώς τὸν ἐπινίκιον ᾄσεται ὕμνον.

Mos. 1:284

According to Hayward, the words ἐπινίκιον ὕμνον evoke the “chants sung during the triumphal procession of a victorious *Imperator*.”⁴¹ Thus, Philo makes Balaam predict the triumph of the One God as “the Emperor of the world”, celebrated by the people in their triumphal hymn at the exodus. In Hayward's view, the way the Targums interpreted Balaam's words in Num 23:24 and 24:8 about the wild ox as attributes of God's strength and power, revealed during the Exodus, and later celebrated in the hymn honouring his triumph (Exod 15:1–2), helps to explain Philo's mention of a hymn in his exposition of Num 23:24 in *Mos. 1:284*.⁴² Hayward also notes that in *Mos. 1:282–287*, Philo emphasizes the auspices and bird omens, which Balak tells Balaam to consult. Balaam, however, depicts how the victory of God and of the Hebrew nation takes place in the exodus, without recourse to auspices by means of birds and voices. Thus, Philo seems to speak of this victory in terms of a Roman triumph and its association with omens and auspices, which qualified the Roman Emperor for a triumph.⁴³ Furthermore, the imagery of Israel as a lion who sings her hymn in the praise of the victorious God at the exodus also points forward to yet another and final victory, which is the outcome of the ‘Man’ prophesied by Balaam. In a way similar to the situation proposed in the encounter with Balak in *Mos. 1:284*, the imagery of Israel as a lion thus re-appears in *Mos. 1:291*, where Philo lets Balaam envisage a future re-enactment of the exodus event, i.e. that Israel, after the victory won by the ‘Man’

shall lie down and rest as a lion, or a lion's cub, full of scorn, fearing none but putting fear in all others. Woe to him who stirs up and rouses it. Worthy of benediction are those who bless thee, worthy of cursing those who curse thee.

Mos. 1:291

41 Hayward 1999, 29, refers to Plutarch, *Rom. 16* for the use of this phrase, as an example of a text describing the triumphs of a Roman leader.

42 See Hayward 1999, 28–29, who refers to the Targums (*Frg. Tg.*; *Tg. Neof.*; *Tg. Onq.*; *Tg. Ps.-J.*) of Num 23:22; 24:8, and to the Targums (*Frg. Tg.*; *Tg. Neof.*; *Tg. Onq.*; *Tg. Ps.-J.*) of Exod 15:1–2.

43 Cf. Versnel 1970, 174–193; 304–355.

As Hayward observes, Philo's expository rendering of Num 24:9 resembles *Tg. Neof.* Num 24:9, which reads: "They repose and rest in the midst of war like the lion and like the lioness, and there is no nation or kingdom which stands up against them [...]." He also suggests that the repetition of the imagery of a lion applied to Israel in *Targum Neofiti* and Philo evokes Israel's praise of Judah in Gen 49:9:

I like you, o Judah, to a lions's cub. [...] You rest and encamp in the midst of war like a lion and like a lioness, and there is no kingdom or people that shall stand against you.

Thus, Hayward argues that, if we assume that *Targum Neofiti* has associated Jacob's blessing of Judah with Balaam's prophecy, Philo has done much the same, viz. locating the 'Man' and the lion imagery in the context of a battle context and of an army encamping in the midst of war.⁴⁴ Consequently, Philo describes how the Hebrew army was "encamped in their tribes, and, astounded at their number and order which resembled a city rather than a camp" (*Mos.* 1:288). Hayward sums up as follows his observations about an imperial and 'messianic' characterization of the 'Man' and his people:

Philo's language is allusive rather than direct, but its sustained use of lion imagery, of terms associated with the imperial triumph, and of themes shared with targumic tradition, combine to suggest that the 'man' whom he expected as the Jews' representative and final leader would emerge from the tribe of Judah, a lion of a man to represent a lion-like people.⁴⁵

There is one more aspect of Philo's picture of the victorious 'Man' and his people which must be briefly noted. In *Praem.* 97, the three virtues, dignity, strictness, and benevolence, are listed to characterize the quality of the people which makes the other peoples obey them as rulers:

[...] τούτους δ' οὐ μόνον τὴν ἐν πολέμῳ νίκην ἀναιμωτὶ βεβαίως ἔξειν, ἀλλὰ καὶ κράτος ἀρχῆς ἀνανταγώνιστον ἐπ' ὠφελείᾳ τῶν ὑπηκόων, ἢ γένοιτ' ἂν δι' εὖνοιαν ἢ φόβον ἢ αἰδῶ. τρία γὰρ ἐπιτηδεύουσι τὰ μέγιστα καὶ συντείνοντα πρὸς ἡγεμονίαν ἀκαθαίρετον, σεμνότητα καὶ δεινότητα καὶ εὐεργεσίαν, ἐξ ὧν

44 Hayward 1999, 35.

45 Hayward 1999, 35.

ἀποτελείται τὰ λεχθέντα· τὸ μὲν γὰρ σεμνὸν αἰδῶ κατασκευάζει, τὸ δὲ δεινὸν φόβον, τὸ δὲ εὐεργετικὸν εὖνοιαν, ἅπερ ἀνακραθέντα καὶ ἄρμωσθέντα ἐν ψυχῇ καταπειθεῖς ἄρχουσιν ὑπηκόους ἀπεργάζεται.

[...] who will win not only a permanent and bloodless victory in the war but also a sovereignty which none can contest bringing to its subjects the benefit which will accrue from the affection or fear or respect which they feel. For the conduct of their rulers shows three high qualities which contribute to make a government secure from subversion, namely dignity, strictness, benevolence, which produce the feelings mentioned above. For respect is created by dignity (σεμνότης), fear by serenity (δεινότης), affection by benevolence (εὐεργεσία), and these when blended harmoniously in the soul render subjects obedient to their rulers.

Praem. 97

Since the manuscripts here have the demonstrative pronoun τούτους as well as τοῦτο it is difficult to decide whether it is a description of the prerogative virtues accruing to “these people” (the pious Jews) or to the ‘Man’ himself after the war. Nonetheless, it is noteworthy that Philo here seems to deploy the “royal” virtues derived from the idea of Hellenistic kingship. The three virtues, which produce three kinds of affections in their subjects, have an exact parallel in the Neopythagorean writer Diotogenes, *Stobaeus* 4.267.5. According to this writer, σεμνότης causes the king to be admired and honored, δεινότης causes him to be feared by his enemies, and εὐεργεσία causes him to be loved.⁴⁶ And we should note that in *Legat.* 148, 157, Philo ascribes the same qualities to the emperor Augustus, in contradistinction to the counterfeit Gaius.⁴⁷ These observations concur with the position taken by E.R. Goodenough:

So Philo claims to have found the ideal ruler realized in both Augustus and Tiberius. Indeed he represents the Romans in official circles as fully acquainted with the royal philosophy and aware of the necessity of living up to it. From this point of view he contrasts Gaius with the magnificent performances of his predecessors. Gaius has not only failed to follow their example, he insists, but has thus failed in spite of explicit precept.⁴⁸

⁴⁶ Winston 1985, 56–58; Sterling 2006, 301.

⁴⁷ Delling 1972, 185–186.

⁴⁸ Goodenough 1938, 103.

These similarities indicate that Philo has adopted the current idea of Hellenistic kingship to describe the imperial effects of the 'messianic' figure whom he was expecting. The fact that Philo saw in emperors such as Augustus the realization of the ideal king may also shed some light on the picture of the 'Man' that was part of Philo's eschatological hopes. When he laid claim to the Greek concepts of kingship which were ascribed to the Roman Emperors and used them to paint the portrait of an 'eschatological' Jewish 'Emperor', this served to reinforce the community of Jews in Alexandria in their resistance to the Roman imperial ideology and authority. Thus, Philo's eschatology was part of a counter-ideology that opposed the transitory dominion of the Roman empire and asserted the future hopes of a victory over the nations under the leadership of the 'Man'.⁴⁹ It is likely that Philo looked forward to the day, sometime in the future, when the kingship brought by the 'Man' would materialize and be vastly superior to the sovereignty of Caesar and the provisional rule of Rome.⁵⁰ Again, Goodenough defines this issue plausibly:

For over against the claims of the Roman emperors Philo himself occasionally gives us a glimpse of a still higher type of king for whom he was looking, that figure which is usually called the Messiah. An ideal warrior and king was to come who would "subdue great and populous nations".⁵¹

4.2.4 Conclusion: The Reception of Num 24:7 in LXX and in Philo
The motif of a Jewish sovereign, with a universal claim on the nations, formed an integral part of Philo's 'eschatological' thinking. Philo reckons with a future conquest of the peoples, if necessary by means of a royal figure, 'Man', who would bring to its full realization the universal charge of the Hebrew nation as the head of all nations. The scriptural basis for this future expectation in Philo's writings is Num 24:7 LXX.

49 If we apply H.K. Bhabha's (1994, 85–92) influential principle of 'colonial mimicry', we could say that Philo mimics and reinscribes imperial terminology and ideology, and in this way transfers the authority of the Roman Emperor to that of the 'Man' as the future Jewish Emperor to come. For the concept of 'mimicry' in post-colonial theory, see further Ascroft, Griffiths, and Tiffin 2000, 139–142; 2002, 165–166.

50 Most recently, K. Berthelot (2011), 166–187, has argued that Philo's writings encompassed the eschatological expectation that the Roman Empire would disappear and be replaced one day by the Jewish people, and that it would acknowledge the superiority and perfection of the Mosaic laws. To this picture, we should add the expectation of the 'Man'.

51 Goodenough 1938, 115.

My review of the scholarly discussion of Num 24:7 LXX lends support to the view that the 'Man' is an eschatological 'messianic' figure, whose kingship and kingdom will be exalted above the eschatological enemy Gog. The use of the Septuagint version of this text in various writings proves at least that it represented a living tradition, and may have had an eschatological "potential".⁵²

This tradition and its 'potential' are apparent when Philo in *Mos.* 1:290 portrays a Hebrew 'Emperor' who would come forth from the Hebrew people one day and who would rule over the nations. In *Praem.* 95, Philo also refers to Num 24:7 LXX and states that the victory over the peoples would, if necessary, take place by means of a 'Man' who leads the Hebrew army as a commander-in-chief and warrior king. In both these texts, the future conquest of the 'Emperor' is conceived in a typology of the Mosaic time and as an eschatological re-enactment of the exodus events. In other words, the battles and victories of Moses and the Hebrew army during the exodus were a temporary realization that prefigured the eschatological conquest to be accomplished by the 'Man', who would bring to a complete fulfillment the hope of the Hebrew nation to be the head of the nations.

5 The Theme of the Kingship of Jesus in John

5.1 *Approach*

Before I examine the *Ecce Homo* motif in John 19:5 both in its literary context and in the cultural context provided by the reception of Num 24:7 LXX in Philo, let me offer some reflections on the further approach of the remaining part of this study, in which I will employ a notion I have used in a previous study, viz. the concept of a 'referential background' of a text.⁵³ By 'referential background' I mean the general setup of institutions, customs, terminology, ideas, etc., which, without necessarily being explicitly referred to in a text, nonetheless form a background of that to which the text refers, and in such a way that one should know about this background in order to catch the full implication of the text.⁵⁴ We can imagine cases in which such features and implications of a text are fully shared by the author and the reader, so that the sender's and receiver's horizons coincide. Here we will assume that a receiver

52 See Hengel 1989b., 655–686.

53 Bekken 2007, 156.

54 Cf. Hartman 1979, 123; 1980, 103–105.

has a correct understanding of a text, when the sender and receiver fully share features of the background to which the message of the text refers. The evidence of 'referential signs' in mutually independent literary texts can provide the scholar with help in reconstructing the various features of a referential background in an alluding text, e.g. the reference to Num 24:7, as this might be applied together with other features from the referential background. In such cases, these 'referential signs' must comply with the following three criteria:

1. It must be possible to situate the 'referential signs' chronologically, historically, culturally, and ideologically so that it becomes probable that the sender and receiver of the text under consideration are aware of and share the same presuppositions.
2. The alluding text must contain 'referential signs', i.e. 'references', 'resonances', 'markers', 'allusions', 'echoes', which are meant to bring the referential background to the mind of the reader. This implies that it is reasonable to assume that we can speak of a 'referential sign' when it forms a meaningful whole or exhibits a thematic coherence together with other signals in the alluding text.
3. It must be possible to explain and understand the 'referential signs' in the alluding text against the referential background. This means that when such signals might be identified in a text, they interplay and indicate the horizon of understanding.

It is a presupposition of this study that the Johannine reader is able to identify 'referential signs' of this kind, that might help the receiver/reader of the Johannine text to 'tune in' on the resonances between John and the referential background. Thus, for example, if an appropriation of Num 24:7 LXX like the one found in Philo's writings belongs to a referential background to which John's text might refer, I would suggest that 'referential signs' such as the following should appear in the context: the typology of a 'new Moses'; the phrase *ἄνθρωπος* associated with motifs of a royal figure, his kingship or kingdom, his exaltation, and universal position in relation to the surrounding nations, to the powers, or to the world; the motif of a victorious *Imperator* and imagery with military connotations or metaphors, such as a battle, triumph, or victory in the defeat of his enemies; a word or phrase that points to institutions, customs, or personages from such an imperial context. This 'referential background' also includes the explicit reference to motifs normally associated with the exodus and a time perspective that can refer to an eschatological future. If we can identify the presence of a constellation of such 'referential signs' in John's Gospel as

a whole, or more specifically in the trial narrative before Pilate in John 18:33–19:22, it becomes easier to grasp what is meant by the notion of Jesus as “*the Man*”.

I shall argue that the proclamation of Jesus as “the Man” in the sense of a Jewish world ruler is combined with various motifs of the Johannine trial narrative, such as Pilate’s affirmation of Jesus as the “king of the Jews”, the mocking of Jesus as a pseudo-Emperor by the Roman soldiers, the motif of Jesus as a rival king over against Caesar, and the execution of Jesus as the “king of Jews”, to present an account of a crucified ‘criminal’, which is turned upside down in order to convey the portrayal of Jesus as the true ‘Emperor’ for all the world. John 20:31 should be read against this backdrop: “These signs are written so that you may believe that Jesus is the Messiah, the Son of God, and that through believing you may have life in his name.” Thus, what is perhaps, the main point in the pragmatic concern of the Gospel reaches its climax in the trial before Pilate, emphasizing the role of Jesus’ true kingship: It is precisely by believing in Jesus, who died as a ‘criminal’, charged with being a seditious “king of the Jews”, and who nevertheless (or precisely for that reason) exhibits his imperial kingship, that “you may have life in his name.” As I argued in chapter one, such a passion apologetic in John would have made sense in a setting in which the Christian community needed to be reinforced in their belief that Jesus was a contender for the imperial throne over against both Caesar and the Jews who claimed that since Jesus had died as a criminal, he could not be the Son of God.

5.2 *Prelude: Jesus’ Kingship Prior to the Trial before Pilate*

Before I examine the thematic and terminological resonances between the reception of Num 24:7 LXX in Philo and John, it is essential to observe how the subject of kingship is displayed in the Johannine narrative prior to the trial before Pilate.

The concept of βασιλεία appears only in 3:3, 5 and in 18:36. In the two first texts, the concept has a concrete sense, i.e. “kingdom of God”, the realm ruled by a king, his territory or the community under his rule. In 18:36, the term βασιλεία is used about Jesus, but here in the abstract sense with the first basic lexical connotation of “kingship” or “sovereign rule”.⁵⁵ Most of the references to Jesus’ kingship, however, are to be found in the Johannine trial narrative, as a brief overview shows:

55 For such an interpretation of βασιλεία in John 18:36, cf. Kvalbein 2003, 229.

ἡ βασιλεία ἡ ἐμή: 18:36
 ὁ βασιλεὺς τοῦ Ἰσραήλ: 1:49; 12:13
 βασιλέα: 6:15; 19:12,15
 ὁ βασιλεὺς: 12:15; 18:37; 19:14
 ὁ βασιλεὺς τῶν Ἰουδαίων: 18:33; 19:3, 19, 21
 βασιλέα τῶν Ἰουδαίων: 18:39

As this survey shows, the title “king” is used only three times outside the trial story: 1:49; 6:15, and 12:13–15. In the first text, Jesus is hailed by Nathanael as “King of Israel”. This designation occurs also in 12:13–15, when at Jesus’ entry into Jerusalem, he is hailed by the people as “the king of Israel”. This title seems to refer to the Jewish internal self-definition, and expresses of the Jewish messianic hopes of a ‘Messiah’, who will come from within Israel. If this is the case, it provides a parallel to the point that is emphasized in Num 24:7 LXX, i.e. the expectation of a coming ruler (ἐξελεύσεται ἄνθρωπος) who derives from ἐκ τοῦ σπέρματος αὐτοῦ. Philo paraphrases ἐκ τοῦ σπέρματος αὐτοῦ in the compressed expression “from you” (“There shall come forth *from you* one day a man”, *Mos.* 1:290). The expression ἀναστήσεται ἄνθρωπος ἐξ Ἰσραήλ (“a man shall rise up out of Israel”) from Num 24:17 LXX, which may have influenced the translation of Num 24:7 LXX, seems also to emphasize the origin of the ‘Man’ from the Hebrew seed, called Israel.

The popular support for Jesus as the coming king also finds expression in John 6:14–15. I shall offer some brief comments on this passage, since it may support the view that John at this juncture prepares the way for Pilate’s question about Jesus’ kingship and his declaration of Jesus as “the Man”.

There are some elements in the Johannine narrative that recall a Mosaic typology. First, the symbolism of the feeding (John 6:5–13) recalls and surpasses the revelatory miracles performed by Moses in the wilderness, such as the manna-event elaborated on in John 6:31–59. After the feeding of the five thousand (6:10–11), the people declare Jesus first to be the expected prophet (6:14), and subsequently John states that Jesus withdrew from the crowds because he saw that they were about to make him a king by force. Thus, the narrative seems to presuppose a link between the efforts to make Jesus a king and the comparison of him with a Mosaic figure, the prophet-king.

As a backdrop to this line of thought, it is worth considering that, according to Philo, Moses was invested with his kingship (βασιλεία), “on account of his goodness and his nobility of conduct and the universal benevolence which he never failed to shew” (*Mos.* 1:148). Thus, this ideal imagery of a king who took care of his people would most probably have been evoked in John’s first readers when they heard that the crowd, on the basis of the

feeding miracle, would perceive Jesus as a potential candidate for kingship in terms of a 'new Moses'.⁵⁶

Second, the crowd was organized in a way that evokes the references to Israel deployed in military camps. Thus, the number five thousand may be part of the exodus typology of the passage, reflecting the military organization of Israel in the biblical passages about the exodus.⁵⁷

Third, the exodus typology also finds expression in the reference to the Passover in 6:4 ("now the Passover, the festival of the Jews, was near"). If the crowd see Jesus as a successor to Moses as a king, it is also reasonable that the expectation of an eschatological king, who would recapitulate the exodus events, had been activated. Since John notes that Jesus withdrew from the crowd because they wanted to "come and make him king by force" (John 6:15), it is obvious that he did not want to be a king according to the expectations of the people, which might have implied being a warrior king in terms of a 'new Moses'. As the analysis of Philo's *Mos.* 1:288–291 showed that in the framework of a Mosaic typology, the 'Man' was conceived in the role of a future king as a 'new Moses', who would bring to its complete fulfillment what was foreshadowed in the works of Moses and the Hebrew army's battles and victories.⁵⁸ Such a background may lend support to C.H. Dodd, who saw in the attempts to make Jesus king by force evidence of a revolutionary 'messianism', which also fits into the political conditions of pre-70 Judea.⁵⁹ When we now turn to other passages of the Johannine account prior to the trial before Pilate, this reading of John 6:14–15 falls into line with the portrayal of Jesus as a king played out against the background of a 'messianic' uprising against the Romans.

In John 11, the motif of a 'political conspiracy' against Jesus presupposes that both followers and opponents may have thought of Jesus as a potential messiah,

56 Busse (2006, 303) comments on John 6:15: "[...] Sie wollen ihn quasi mit Gewalt zu ihrem König proklamieren. Diese, wenn auch aus johanneischer Perspektive falsche Reaktion der Begünstigten wird jedoch aus deren Erfahrungshorizont verständlich. Ihr Motiv, ihn zum König zu machen, setzt eine Situation voraus, in der es eine vom Euergetismus bestimmte Persönlichkeit wie Jesus bei ihnen nicht gab, sie sich aber vom Königtum gerade das versprochen, was er für sie getan hatte. Dies entspricht einem viel bezeugten hellenistischen Erwartungshorizont."

57 Cf. Marcus 1999, 414.

58 Josephus describes Moses and Joshua as prophets of a revolutionary bent who led their followers out to the wilderness and promised to work wonders there, apparently basing their hopes on the biblical prophecies of a new exodus (*J.W.* 7:437–442; *Ant.* 20:97–99, 167–172, 188).

59 Dodd 1963, 212–217; Rensberger 1984, 396.

so that those who believed in him were so numerous that they posed a threat: "So the chief priests and the Pharisees called a meeting of the council, and said, 'What are we to do? This man is performing many signs. If we let him go on like this, everyone will believe in him, and the Romans will come and destroy both our holy place and our nation'" (11:47–48). The Jewish authorities' fear of revolution and of the destruction of the temple and the nation by the Romans (11:48) does not lack verisimilitude, when we bear in mind Jesus' withdrawal lest "they make him king" (6:14), the involvement of a substantial number of Roman troops in the arrest of Jesus, and the Jewish authorities' statement to Pilate "Everyone who claims to be a king sets himself against the emperor" (19:12), which is shortly followed by: "We have no king but Caesar" (19:12). Hence, in a situation characterized by this threat of public and political disorder with implied messianic overtones, it becomes easier to grasp the words of Caiaphas about what is expedient for the people ("it is better for you to have one man die for the people than to have the whole nation destroyed", 11:50).⁶⁰

The next passage in John that might fit the popular expectation of a conquering king ascribed to Jesus is John 12:12–16, which I shall quote in full, with some comments:

The next day the great crowd that had come to the festival heard that Jesus was coming to Jerusalem. So they took branches of palm trees and went out to meet him, shouting, 'Hosanna! Blessed is the one who comes in the name of the Lord—the King of Israel!' Jesus found a young donkey and sat on it; as it is written: 'Do not be afraid, daughter of Zion. Look, your king is coming, sitting on a donkey's colt!' His disciples did not understand these things at first; but when Jesus was glorified, then they remembered that these things had been written of him and had been done to him.

This is the only other occurrence of the phrase "King of Israel" in John. Thus, this text too emphasizes the topic of kingship that emerges not only from the direct ascription of the title of king to Jesus, but also from the citation of Zech 9:9 with its expression "your king".⁶¹ The picture of Jesus in this text as a warrior king can be substantiated by several factors.

First, we have the following verse of the quotation from Zech 9:9, viz. Zech 9:10, which presents the military imagery of a victorious king who will bring

60 See Lieu 2007, 104–106; Theobald 2009, 752–753.

61 For the following comments on John 12, cf. Menken 1996, 79–97; Brunson 2003, 271–283.

about universal peace, apparently by military victory (cf. v. 9: “Lo your king comes to you, triumphant and victorious [...]”).

Second, the mention of palm branches symbolizes victory and the proclamation of the king’s fertility and his victorious qualities, and might evoke the Roman custom of a triumph. If so, as I will suggest later on, this feature corresponds to the function of the Roman soldiers’ clothing of Jesus in royal *insignia* and especially with the laurel-wreath, as a parody of Jesus as a victorious *‘Imperator’*.

Third, in the immediate context, the crowd welcomes Jesus with the words of Ps 118:25–26 as the warrior king (cf. Ps 118:10–18) who has returned victorious from battle to establish peace. Fourth, the mention of a donkey, probably borrowed by Gen 49:11, accords with this claim by Jesus to authority and kingship and with the imagery of a warrior king who would achieve peace and security for his people.

Finally, when we are told about the disciples’ complete understanding of the entry into Jerusalem in the light of his glorification, this indicates that they and the implied reader of the narrative apprehended the full import of this event, as a prophecy *ex eventu*, i.e. as an anticipation of the coming battle, victory, and exaltation of Jesus on the cross.

In short, both John 6:14–15 and 12:12–16 give us an important insight into the function of these texts as a prelude to the understanding of the kingship motif in the trial narrative. John 6:14–15 points out that Jesus withdraws from the crowd, when they most probably perceived him to be the expected warrior king according to their nationalistic hopes. Correspondingly, John 12:12–15 indicates that he is correcting an excessively nationalistic understanding of his kingship, which might have elicited fear: Jesus is coming, not on a war horse, but sitting on a donkey’s colt, though still a warrior king. Hence, according to John, Jesus fulfills these expectations of a king in a way that breaks the expected pattern, throwing a banquet and riding a donkey, rather than raising an army. This picture is corroborated by the account of the trial before Pilate: If John perceived that Jesus fulfilled Jewish eschatological hopes of the ‘Man’ in terms of a ‘new Moses’ who would come to conquer the nations and rule as an eschatological ‘Emperor’, it is equally true that Jesus transcended this hope in many ways. Having outlined the main scope of the remainder of this chapter, let us now begin with Pilate’s use of the title “king of the Jews”.

5.3 *The ‘King of the Jews’*

In contrast to the epithet “the king of Israel”, which John prefers, in order to say that Jesus is designated to rule the world and not Israel alone (cf. 12:19:

"Look, the world has gone after him!"; cf. also the reference to the Greeks who ask to see Jesus in 12:20), the title "king of the Jews" is used about Jesus by the outsiders in John (and the other gospels), that is to say, by Pilate and the soldiers. This is consistent with the fact that the title "the king of the Jews" was a Roman designation of the kings of Judea.⁶² John's use of the expression "king of the Jews" on the lips of the Roman representatives throughout John 18–19 emphasizes how they consider Jesus: unlike the Jews, they hold that Jesus the Nazoraean *is* the "king of the Jews". Thus, the accusation against Jesus as a seditious criminal, presumably levelled by the Jews in the first place (that this man says he is the "king of the Jews"), has received a contrasted and paradoxical meaning by the end of the account: John lets Pilate affirm that Jesus is their royal messiah precisely in their successful campaign to have him executed on that very same charge (cf. 19:21–22). Some details in John's use of the title "king of the Jews", particularly at the beginning and the end of the trial and execution narrative support this understanding.

When Pilate for the first time turns to Jesus, he makes the following declaration about him: "You are the king of the Jews" (σὺ εἶ ὁ βασιλεὺς τῶν Ἰουδαίων). The statement seems to come out of the blue, but it presumably stems from the charge made by the Jewish leaders. This indicates at the very start of the trial how John brings into focus the political accusation of Jesus as an alleged king. Furthermore, the fact that Pilate declares that Jesus *is* the "king of the Jews", and does not *ask* Jesus about his kingship as in the other gospel accounts, affirms that for the Johannine Pilate, Jesus *is* "the king of the Jews".⁶³ And Pilate (and the Roman soldiers) make a similar claim repeatedly, as we see in the following passages:

After he had said this, he went out to the Jews again and told them [...] 'Do you want me to release for you the *King of the Jews*?'
 18:39

And the soldiers wove a crown of thorns and put it on his head, and they dressed him in a purple robe. They kept coming up to him, saying, 'Hail, *King of the Jews*!'
 19:2–3

62 Cf. Josephus, *Ant.* 14:36; 15:373; 16:11; Matt 2:1–11.

63 Cf. de Boer 2000, 148–149.

He said to the Jews, 'Here is *your King!*'

19:14

Pilate asked them, 'Shall I crucify *your King?*'

19:15

The ironic aspect implied in Pilate's use of the title "the king of the Jews" emerges most clearly from John's account of the execution and crucifixion, where Jesus reigns as "king of the Jews" from the cross. In the eyes of the Jews, the penal proceedings against Jesus came to a successful end when he was finally executed; but precisely these proceedings are meant to emphasize that Jesus was in fact the true royal messiah of the Jews and of the world. Pilate's emphasis on Jesus as "king of the Jews" reached its climax in the exchange between Pilate and the Jews concerning the placard which Pilate attached to the cross, "Jesus the Nazoraean, the King of the Jews":

Then the chief priests of the Jews said to Pilate, 'Do not write, "The King of the Jews", but, "This man said, I am King of the Jews"'.
19:21–22

This was Pilate's final affirmation about Jesus in the execution narrative. Pilate was made to confirm to the Jews in an ironic manner that what he had written could not be changed. The charge the Jews made initially against Jesus the Nazoraean as a seditious criminal, that he claimed to be the "king of the Jews", is now reversed: Jesus is their king forever, publicly proclaimed for all the world to see. As Meeks states:

Perhaps it also explains the very puzzling fact that in the passion account John makes no alteration in the problematic title "King of *the Jews*", even though "the Jews" in the Fourth Gospel stand for the disbelieving world. Apart from the evident strength of the tradition itself, the title serves the evangelist's intent, apparent from the structure of the passage, to show that Jesus remains king of the disbelieving world as well of the believers.⁶⁴

In the next section we shall see that John employs the proclamation of Jesus as ὁ ἀνθρῶπος, to emphasize the point that Jesus is not only "the king of the Jews", but is proclaimed by Pilate as the true 'Emperor' of all nations.

64 Meeks 1967, 80.

5.4 'The Man' in the Conceptual Framework of an 'Emperor'

I have argued above that the 'Man' envisaged in Num 24:7 LXX is regarded as an eschatological royal figure, whose kingship and reign will be exalted over the eschatological enemy Gog. Moreover, examining the use of Num 24:7 LXX in *Mos.* 1:290 and *Praem.* 95, I argued that Philo portrays the exaltation of the 'Man' in terms of a 'new Moses', with features that recall the imagery of an 'Imperator' and of the Roman triumph, who would appear one day as a commander-in-chief, and conquer and rule over many nations, and whose kingdom would be spread continuously. I shall now show that the designations of Jesus as the "king of the Jews" and ὁ ἄνθρωπος (19:5) in the Johannine trial narrative cohere well with such an imperial context. I suggest that the thematic consonances between John and the discourse of Philo enhance an imperial reading of ὁ ἄνθρωπος and elements of the immediate context, John 19:1–15.⁶⁵

My analysis of John 19:5 here begins with this question: Does the immediate context reveal more specifically what kind of figure ὁ ἄνθρωπος is thought to be? The emphasis on the Roman imperial context might point to an affirmative answer. After the flogging of Jesus by Pilate (19:1), Jesus is mocked by the Roman soldiers (19:2–3). J. Blank has designated the twin proclamations of 'the Man' (19:5) and the 'king' (19:14) as a king's 'epiphany', preceded by 'enthronement and investiture' and followed by the king's 'acclamation' by the people.⁶⁶ Blank's conjecture was based on a ceremony rooted in the ancient motif of sacral kingship. As several scholars have pointed out, the same origin probably lies behind the Roman custom of *appellatio imperatoria* as well.⁶⁷ According to H.S. Versnel, the roots of the *appellatio imperatoria* lie in a ceremony of sacral kingship:

The crux of the matter is not that the king as the holder of the highest power revived in the triumph—although he did—, but that a specifically regal ceremony was kept up during the republic. In other words, it was not the *rex*, but the *rex* as triumphator—with the *insignia* which were required especially for this ceremony, showing the red lead, which was used only in this ceremony, and accompanied by the exclamation

65 Recent studies have emphasized the imperial context of the trial before Pilate (John 18:28–19:22), but neither of these discusses the use of ὁ ἄνθρωπος against such a background; see e.g. Carter 2008, 289–314; Thatcher 2009, 63–85; 2011, 140–163.

66 See Blank 1959, 60–81.

67 Cf. Wagenvoort 1947, 59–60; Combès 1966, 73–120; Versnel 1970, 11–55; 394.

trumphe, which was used only on this occasion—who for one day manifested himself again, embodied in the victorious commander.⁶⁸

The *appellatio imperatoria* can be briefly summarized as follows: The ceremony was not originally, but became later, the first step on the way to the Roman Triumph, and gave the title *Imperator* its special significance.⁶⁹ It was an honorific title, conferred by the army and the people upon a commander-in-chief after a victory, which later developed into the title of ‘Emperor’. The *appellatio imperatoria* thus became the means by which the soldiers and the people after a victory would shout their acclamation, the technical term for which was *appellare imperatorem* or *salutare imperatorem*.⁷⁰ The element of *salutare imperatorem* had the character of an *acclamatio* by the Roman soldiers. The *acclamatio* signified that they looked upon their commander-in-chief as the personal *Victor* and *Imperator* proper: “the victory thus gave occasion to the recognition and ratification through an acclamation by the people or the army of a worthiness already proved.”⁷¹ Thus, the *Imperator* was hailed by his soldiers and the people as an *Imperator* worthy of this name.⁷² The first to be attested with the *appellatio* and the title *Imperator* was P. Cornelius Scipio on the occasion of his victory in 210 B.C. The last commander who was awarded an *appellatio imperatoria* was Iunius Blaesus in 22 C.E. From this date on, the title was reserved to the Emperors.

Taking my lead from Blank’s conjecture and Versnel’s suggestion that the Romans adapted and applied regal ceremonies to the triumph, I propose that the Roman custom of *appellatio imperatoria* may enhance our recognition of the Roman imperial background of John 19:1–15.⁷³ The Johannine account of the clothing, the crowning, and the acclamation of Jesus by the Roman soldiers as King of the Jews, leading up to Pilate’s honorific ‘entitling’ of Jesus as ὁ ἄνθρωπος and ὁ βασιλεὺς, viz. as an ‘Emperor’, and the ensuing response of the Jews, are all elements that might be thought to mimic and recall the Roman cus-

68 Versnel 1970, 394.

69 On the following, see Versnel 1970, 340–349.

70 Varro, *Rust.* 2.4.2; Cicero, *Att.* 5.20; Caesar, *Bell. civ.* 2.26; 2.32; 3.3; 3.71; 3.91; *Bell. Hisp.* 19.6; *Bell. Alex.* 48.2; Plutarch, *Pomp.* 78.

71 Versnel 1970, 343.

72 Caesar, *Bell. civ.* 2.26; Appian, *Bell. civ.* 2.44.

73 My suggestion that *appellatio imperatoria* is lurking in the referential background of John 19:1–7 is inspired by Versnel’s renowned study of the Roman Triumph, which, however, does not include relevant data from John’s gospel or other parts of the New Testament.

tom of *appellatio imperatoria*. Thus, as John sees it, it is actually a parody of the *appellatio imperatoria*. As the implied reader of John already knows, the subversion of the parody is the true version.

First, as a prelude to the *appellatio imperatoria*, John states that Jesus was clad by the Roman soldiers in the robe and crown (19:2), which might be associated with the Roman ceremony of triumph. In several of the accounts of the Roman triumphs, the triumphators wear the purple robe and a crown.⁷⁴ While Jesus is clad with the purple robe inside the military headquarter of the Romans, the *Praetorium*, he is twice presented to the Jews wearing it, and as Meeks notes, "there is no indication in John that the purple robe was removed before the actual crucifixion."⁷⁵ More specifically, the notice of the crown of thorns might also have mimicked the ceremony of *corona graminea*, which was the highest mark of honour to be awarded a Roman commander when an entire army was saved from the direct threat of annihilation. According to Versnel, this laurel wreath "was the only one that soldiers gave to their imperator, the other wreaths were, the other way round, given by the commander to the meritorious soldier."⁷⁶

Second, the Roman soldiers met Jesus with a gesture of greeting: "Hail, king of the Jews!" (19:3), recalling the way a victorious *Imperator* was acknowledged by the Roman soldiers by the *appellatio* after the victory; *salutare imperatorem* was the standard term for this act.⁷⁷ It is appropriate here to mention the suggestion made by H. Bond: "It is possible that in John's presentation the soldiers are not just mocking Jesus as a Hellenistic king generally, but as the *Emperor*."⁷⁸ In support of this thesis, Bond writes that in the Greek-speaking world, the Emperor was often referred to as king.⁷⁹ She adds that "as far as the gentile soldiers were concerned, 'the King of the Jews' was none other than Caesar, as even the chief priests are forced to acknowledge in 19.15."⁸⁰ She adds: "The presence of the purple garment, the crown, which may represent the imperial laurel wreath, and the greeting of the soldiers, all suggest that Jesus

74 Cf. e.g., Livy, *Epit.* 10.7.9; 30.15.11; Cassius Dio 62.20.2–6; Suetonius, *Tib.* 17; *Nero* 25; Appian, *Hist. rom.* 66.4.3; Josephus, *J.W.* 7:123–157.

75 Meeks 1967, 69.

76 Versnel 1970, 376.

77 Cf. Wagenvoort 1947, 60–61.

78 Bond 1998, 183.

79 For a discussion of the title king applied to Caesar, see e.g. Goodenough 1928, 55–102; Weinstock 1971, 40–53; Rawson 1975, 148–159; Millar 1992, 613–615; Crowe 2009, 98–99.

80 Bond 1998, 183.

is ridiculed by the Romans soldiers as a mock-Emperor”.⁸¹ Her understanding of this scene is further corroborated if we take into consideration the Roman ceremony of *appellatio imperatoria* as a plausible background.⁸²

Third, in John 19:4–7, Pilate leads Jesus out, wearing his imperial *insignia*, and presents him to the Jews. This scene has been compared to 19:13–16. There are close parallels between the texts, with the presentations of Jesus by Pilate followed by a proclamation (v. 5: ἰδοὺ ὁ ἄνθρωπος, and v. 14: ἴδε ὁ βασιλεὺς ὑμῶν), to which the response is similar on the part of the Jews (v. 6: σταύρωσον σταύρωσον, and v. 15: ἄρον ἄρον σταύρωσον αὐτόν). The parallelism between the two scenes and the similarity in the dramatic structure of the texts to the ceremony of *appellatio imperatoria* indicate that Pilate presents Jesus to the people as an ‘Emperor’, and thus makes another acclamation of his honorific title, which was normally followed by an acclamation by the people. That the Jews realize that the expression ὁ ἄνθρωπος and “the king of the Jews” have imperial and plausibly ‘messianic’ overtones is affirmed by their cries of “Crucify him!” (19:6, 15) as a direct response to Pilate’s *appellatio*. Thus, both the ‘entitling’ of Jesus by Pilate and the negative response by the Jews make sense if the designation ὁ ἄνθρωπος is meant as an opportunity to mock Jewish hopes by presenting Jesus as an ‘Emperor’.⁸³

81 Bond 1998, 183.

82 Bond 1998, 183. In *Flacc.* 36–40 Philo renders the mocking of an insane person named Carabas by the Alexandrians in order to mock King Agrippa I, when he visited Alexandria in 38 CE. As has been often noted by scholars, the ‘theatrical farce’ and mimetic scene is similar to the way Jesus is mocked by the Romans soldier dressed up and equipped like a royal figure: “The rioters drove the poor fellow into the gymnasium and set him on high to be seen of all and put on his head a sheet of byblus spread out wide for a diadem, clothed the rest of his body with a rug for a royal robe, while someone who had noticed a piece of the native papyrus thrown away in the road gave it to him for his sceptre. And when as in some theatrical farce he had received the *insignia* of kingship and had been tricked out as a king, young men carrying rods on their shoulders as spearmen stood on either side of him in imitation of a bodyguard. [...] Then from the multitudes standing round him there rang out a tremendous shout hailing him as Marin, which I said to be the name for the Lord in Syria” (*Flacc.* 37–39). The difference, however, between Philo’s description of the mocking of Agrippa in *Flacc.* 37–39 and the mocking of Jesus in John 19:1–3 is the explicit reference to the Roman imperial context in the latter text, which speaks in favor of the view that Jesus was not only mocked as any other Hellenistic king, but as a pseudo-Emperor.

83 Cf. Bond 1998, 182, who reads the Johannine account and the role of Pilate as the one who “takes the opportunity to mock their [i.e. the Jews’] messianic aspirations and, indirectly, the prisoner himself.”

Some further arguments based on the data in Num 24:7 LXX, Philo, and John also substantiate this understanding. In the first place, the plausible allusion or 'marker' to Num 24:7 LXX and its portrait of a 'Man' (ἄνθρωπος) as an eschatological king who is to rule over many nations may have suggested to the Jews that Jesus is here being ridiculed as a mock-emperor.⁸⁴ In the second place, this imperial imagery receives further corroboration by the testimony of Philo's employment of ἄνθρωπος (Num 24:7 LXX), who is seen both as an eschatological 'Emperor' who shall rule over many nations and whose kingship shall be exalted (*Mos.* 1:289–291), and as a commander-in-chief who brings the Hebrew people to be rulers of the conquered enemies (*Praem.* 95). Finally, indirect support for the understanding that Pilate's *appellatio* of Jesus as ὁ ἄνθρωπος might have given the Jews imperial associations that went beyond an alleged king-pretender, is to be found in John 19:15. After he presents Jesus as king (19:14) and the Jews reinforce their demand for that punishment as the only adequate reaction to such an offense, Pilate asks: "Shall I crucify *your king*?" In the light of the ironic fact that for the Johannine Pilate, the "king" of the Jews is really Caesar, the divine Emperor, the question means: "Shall I crucify *your Emperor*?" The question is followed by the absolute rejection of the Jews: "We have no king but Caesar" (19:15). This answer inevitably implied that the Jews perceived that Jesus' kingship stood in opposition to the Emperor, Caesar, since: "Everyone who claims to be a king sets himself against the emperor" (19:12). Accordingly, the implied juxtaposition of Jesus and Caesar as rival kings suggests that in the view of the Jews, Jesus has been convicted as seditious criminal because of his treasonous claim to be king in opposition to Caesar. Thus, their implied answer to Pilate's question meant really: Caesar, *not* Jesus, is our 'Emperor'. This statement on the part of the Jews emphasizes how John perceived the tragic irony behind the entire trial: in rejecting Jesus as their true 'Emperor'—the object of their highest eschatological expectations—the Jews at the same time denied their eschatological hopes of being the people of God, who were meant to have the ultimate sovereignty over all nations. The implication of rejecting this eschatological hope is that "the Jews' cease to be 'Israel', the special people of God, and become only one of the ἔθνη subject to Caesar."⁸⁵ In the light of the Philonic eschatological passages referred to above, this point is made very clearly. If we assume that the implied reader of John's narrative is capable of identifying 'referential signs' of this kind, he is able to perceive something that

84 According to Ben-Porat (1976, 105–128, esp. pp. 107–108) an allusion can be defined as "a device for the simultaneous activation of two texts".

85 Meeks 1967, 76.

neither Pilate nor the Jews can see, namely that Jesus is proclaimed as the true ‘Emperor’ who is rejected by his own people.

As I will show in the remaining sections of this chapter, John’s use of ὁ ἄνθρωπος as imperial imagery is accompanied by other referential signs that may help the perceptive receivers of the Johannine text to ‘tune in’ on the motif of a commander-in-chief, an ‘Emperor’, who is over the nations at the moment he conquers his enemies. The point is that the Johannine features of an earthly and cosmic battle between Jesus and his enemies, Jesus’ universal victory when he is exalted on the cross as the “king of the Jews”, all set within the time setting of Passover, accord with the way in which Philo, on the basis of Num 24:7 LXX, envisages the ‘Man’ as a commander-in-chief who is to conquer the enemies (*Praem.* 95), and whose kingship is to be exalted over many nations in an eschatological re-enactment of the events of the exodus (*Mos.* 1:289–291). I shall now give a brief outline of some features in the Johannine narrative against such a backdrop.

5.5 *The Imagery of a Conquering Emperor*

There are several elements in John that employ the imagery of a military battle. In John 18:36, Jesus claims that his kingship is οὐκ [...] ἐκ τοῦ κόσμου τούτου. By means of his response to Pilate’s question about what he had done to deserve being charged as a seditious criminal, John again creates the impression that Jesus might have been regarded by his followers as a nationalistic warrior king, and thus be seen as a potential threat to the Romans (cf. 11:48 and the presence of Roman troops involved in a fairly large military operation against Jesus at his arrest, 18:3). This *scenario* is also intelligible against the backdrop of claims of the opposite kind, identifying Jesus within the framework of a Mosaic typology as the ‘new Moses’ (John 6:14–15) and as the triumphant and conquering King of Israel (12:12–16), who will bring to a complete realization the universal charge of the Jewish nation, going far beyond what Moses was able to fulfill during the exodus (cf. *Mos.* 1:289–291). Against this background, the emphasis on Jesus’ kingship in contrast to an ordinary earthly, military, and political one, is further affirmed by Jesus’ claim that his disciples would have used force to prevent his deliverance to the Jews: εἰ ἐκ τοῦ κόσμου τούτου ἦν ἡ βασιλεία ἡ ἐμή, οἱ ὑπηρεταὶ οἱ ἐμοὶ ἡγωνίζοντο [ἄν] ἵνα μὴ παραδοθῶ τοῖς Ἰουδαίοις [...] (“My kingdom is not from this world. If my kingdom were from this world, my followers would be fighting to keep me from being handed over to the Jews [...])” (18:36). The tense of the military expression for fight here, ἡγωνίζοντο, is imperfect continuous and suggests that his ‘officers’ (cf. ὑπηρεταὶ used of agents in a military battle), would be fighting now, not just at the arrest. Within the narrative discourse, therefore, this verb functions as an *analepsis*, a ‘flashback’

to the arrest scene, which has features that recall the arrest of a brigand by the *militia* recruited from the Roman cohort and the Jewish municipalities.⁸⁶ Thus, we meet Judas, as the informant, leading the Roman soldiers and the police officers of the Jews, equipped with weapons and thus seemingly prepared for a battle: "So Judas brought a detachment of soldiers together with police from the chief priests and the Pharisees, and they came there with lanterns and torches and weapons" (18:3). In the ensuing tumults, John makes it clear that the disciples are not attacked in any way, although Peter wounds a servant during the police operation (18:10). Instead, Jesus ensures that his disciples are not his accomplices in a potential revolt (18:8). In a case of sedition, this detail is astonishing. But John informs us about this gesture by Jesus to make the point that he is commissioned for a higher cause than a military battle of a worldly order. Thus, rebuking Peter, Jesus says: "Put your sword back into its sheath. Am I not to drink the cup that the Father has given me?" (18:11). As C.K. Barrett formulates it: "Kings of this world naturally fight for supremacy; that Jesus and his followers do not do so shows that his kingdom is of a different order."⁸⁷ Nonetheless, the declaration that Jesus' kingship was of a different kind did not mean that it was seen to have no impact on the world, but rather that its source lay beyond this world, and so was established otherwise.⁸⁸ Thus, instead of an armed fight for his kingship on this world's premises, John's narrative presents Jesus' 'messianic' and peaceful 'warfare' in the framework of Jewish apocalyptic ideas and in the view of his death. Some observations on the meaning of John 1:29, 36 and 12:31–33 from the Jewish background and from the literary contexts in the gospel itself help us to see Jesus as the conquering King.

In the identification of Jesus by John the Baptist, we encounter the apocalyptic idea of the conquering lamb as a symbol of the Messiah: "The next day he saw Jesus coming toward him, and said, 'Behold, the Lamb of God who takes away the sins of the world!' ("Ἴδε ὁ ἀμνὸς τοῦ θεοῦ ὁ αἴρων τὴν ἁμαρτίαν τοῦ κόσμου)" (John 1:29). Andrew, one of the disciples of John the Witness, who on the next day (cf. 1:36) heard him again identify Jesus as "the Lamb of God", said to his brother Simon Peter: "We have found the Messiah (which means Christ)" (1:41). And when John the Witness explicitly says here: "I am not the Christ" (1:20), this implies that it was Jesus who was the Christ. Furthermore, in 1:49 we read that Nathanael confessed: "You are the King of Israel!" These observations

86 Cf. Bickerman 2007, 770.

87 Barrett 1978, 537.

88 On the theme of the political implications of kingship in John, see Meeks 1967, 61–99; Rensberger 1984, 395–411; Lieu 2007, 97–108, esp. pp. 104–106.

support C.H. Dodd's view that "the Lamb of God" appears in the context to be a synonym for "the Messiah" and "the King of Israel", a royal and 'messianic' title. Moreover, according to Dodd, the rest of 1:29, viz. "who takes away the sins of the world", resemble the apocalyptic picture of a conquering lamb that destroys evil in the world, for example by overcoming the evil power. This feature of a conquering lamb of the last times appears in *T. Jos.* 19:8 and *1 En.* 90:8–9, 38. A Christian adaptation of the motif of the conquering lamb is also found in Rev 17:14, which may indicate that John draws on a tradition which also underlies the Apocalypse of John and thus was known in the region of Asia, with which John's Gospel is connected.⁸⁹ In the context of the Johannine account, the idea of the conquering lamb is adapted to emphasize that Jesus removed sin, not by militant force and violent measures, but by laying down his life. The statement that Jesus is the "Lamb of God" may imply that such a conquest takes place by means of God's power (cf. 10:17–18; 19:11). A parallel is provided by *1 Enoch* 90, which interprets the eschatological conquest of the ram within a typology of God's intervention for salvation and judgment that is consistent with the past, for example during the exodus.⁹⁰ A further analogy is the application of the imagery of the unicorn as a description of God's reinforcement of Israel and the 'Man' in the framework of an exodus typology in Philo: just as God brought Israel from Egypt "as one man" (*Mos.* 1:284) and the people is led by God "as a single army wing" (*Mos.* 1:290), so too, God will strengthen the 'Man' and make him awe-inspiring and irresistible (*Praem.* 95). Num 24:8 LXX allows for such an ambiguous exposition: God brought *him* out of Egypt and *he* has a unicorn's glory, that is, God's might.

In John 12:31–33 we meet the motif of a cosmic combat linked to the lifting up of Jesus to the cross:

Now is the judgment of this world; now the ruler of this world (ὁ ἄρχων τοῦ κόσμου τούτου) will be driven out. And I, when I am lifted up from the earth, will draw all people to myself. He said this to indicate the kind of death he was to die.

Scholars agree that John 12 can be read as a prelude and introduction to the trial narrative.⁹¹ The context suggests a link between the motif of the ἄρχων

89 Cf. Dodd 1953, 230–238; and 1965, 269. The suggestion that "God's Lamb" in John 1:29, 36 is a royal and 'messianic' title has subsequently been supported by scholars such as Brown (2010, 183–185), Aune (1997, 367–373), and most recently Borgen (2014, 231).

90 Cf. Portier-Young 2011, 372–381.

91 See e.g. Kovacs 1995, 228; Frey 2001, 357; 2002, 196–198; Dennis 2007, 678–680.

and the death of Jesus. Accordingly, Jesus' decision to carry his cross in the recast story of Getsemane (12:27–28) leads to the expulsion of the world ruler and the judgment of this world. This can also be seen from the fact that the time references to the “hour” of vv. 23 and 27, and “now” of v. 31 refer to the eschatological moment and the coming death of Jesus. The scene of a combat between Jesus and “the ruler of this world” is indicated also in two other occurrences of this designation in 14:30–31 and 16:8–11:

I will no longer talk much with you, for the ruler of this world is coming. He has no power over me; but I do as the Father has commanded me, so that the world may know that I love the Father.

14:30–31

And when he comes, he will prove the world wrong about sin and righteousness and judgment: about sin, because they do not believe in me; about righteousness, because I am going to the Father and you will see me no longer; about judgment, because the ruler of this world has been condemned.

16:8–11

As in 12:31, the former of these texts suggests a connection between the “ruler” (ἄρχων) and the death of Jesus. Like chapter 12, 14:30–31 emphasizes that the time of the cosmic conflict is imminent, since the “ruler of this world” is presented as “coming” in the encounter with Jesus: “for the ruler of this world is coming” (14:30). In 16:8–11, within a discourse in which Jesus prepares the disciples for his own death and the persecutions they themselves will suffer, Jesus promises that the Paraclete will come and plead his case against the world. In a reversal of the world's attempt to convict Jesus of his crimes, the Paraclete will assist the disciples and convince the world of its sin, of righteousness, and of judgment, which will be revealed in Jesus' death and exaltation on the cross. The latter text, 16:8–11, like 12:31–33, connects the ruler with the world, and both texts seem refer to the same event, viz. the judgment of “this world” (12:31) and the judgment of the “ruler of this world” (16:11).

However, the identification of the ὁ ἄρχων τοῦ κόσμου is not made explicit in these texts. In the light of 13:2, 27, it is natural to associate the world ruler with the devil, who then will confront Jesus by causing his betrayal by Judas, which in turn leads to his crucifixion. As J. Kovacs has shown in her study, the motif of the expulsion of “the ruler of this world” in John 12:31 is paralleled most closely in the tradition of the casting out of Satan from heaven found in 2 *En.* 29:4–5; Luke 10:18; and Rev 12:7–9.

The casting out of the world-ruler in John 12:31 most probably points forward to an imminent combat, which is about to occur at the time of the crucifixion of Jesus, and to which the Johannine narrative has been pointing ever since 3:14 (or even since 1:5). As Kovacs puts it in her interpretation of 13:21–30:

Like John 8:39–47, this text demonstrates that, for the Fourth Evangelist, “the devil” is not a mere figure of speech, or a “faded mythological conception.” Satan is an effective power who is active on the stage of human history. In the course of what appears to be an ordinary human meal, the decisive act in the cosmic conflict between God and evil is set in motion.⁹²

Furthermore, John envisages that this battle, with the cross as its locus, is about to be fought on two levels, an earthly and a heavenly, in a synergistic interaction: On the cosmic level, the crucifixion brings the decisive victory over the devil as the superior ruler of this world. On a human level, as, for example, Meeks and Bond have suggested, the devil has his inferior representatives among the leading men, represented by the ‘Jews’ as the religious and social leaders of the Jewish people and by Pilate as representing the Emperor in Rome.⁹³ Thus, with parallels in the War Scroll of Qumran, the combat takes place simultaneously on two levels, in heaven and on earth.⁹⁴

We saw above that Philo in *Praem.* 95 interprets Num 24:7 LXX within the context of Moses’ words in Deuteronomy 28 and Leviticus 26 about the blessings of peace or victory in war. Accordingly, when Philo, in *Praem.* 79 and *Praem.* 93–95, draws on the words of Deut 28:1, 7 LXX, Lev 26:7 LXX, and Num 24:7 LXX, he pictures a Hebrew ‘Emperor’ who will bring the blessing of peace and the universal and victorious role of the Hebrew nation vis-à-vis the other nations to the final and complete fulfillment. In a corresponding way, John perceives the outcome of the cosmic battle between Jesus and his enemies as peace and victory. This is not a peace and victory won on the world’s terms, carried out with arms as a deliverance of Jerusalem and the Jewish people from the Romans, but in the divinely determined death and exaltation on the cross.

⁹² Kovacs 1995, 234.

⁹³ Meeks 1967, 67; Bond 1998, 193.

⁹⁴ Collins (1984, 129) formulates the two level conflict in the War Scroll in this way: “The War Scroll envisages a synergism of the earthly and the heavenly. It is concerned with a conflict between the faithful Israelites and their enemies on earth. However, it sees this conflict as only one dimension of a cosmic event. Corresponding to the earthly war—and determining its outcome—is the war between the angelic Sons of Light and Sons of Darkness.”

Thus, Jesus encourages his disciples immediately before his betrayal, prior to the cosmic battle which is about to be fought at the time of his crucifixion: "I have said this to you, so that in me you may have *peace*. In the world you face persecution. But take courage; I have *conquered* the world!" (16:33). B. Lindars aptly comments on this verse:

This verb (*nikān*, cf. *nikē* = victory) is a military term. Rarely used in the NT and only here in the Fourth Gospel. But it occurs in 1Jn 2.13f.; 4.4; 5.4f. The last reference is specially close to the present passage. The use of this verb draws attention to the cosmic significance of the Passion, cf. 12.31.⁹⁵

In the context of John's gospel, 16:33 is a compressed expression of its 'realized eschatology':⁹⁶ Christ has already gained his victory; the ruler of this world is cast out; the enemies are already defeated. This means that the victory on the cross reveals how the true kingship of Jesus is realized and who his subjects are. This conclusion plainly implies that Jesus is exalted above the devil and his representatives in the 'world', such as Pilate and the 'Jews'. This is further affirmed in Jesus' reply to Pilate that the authority and power of the Roman governor to execute Jesus ultimately derive from God (19:9–11). Thus there is no doubt about the activity of God behind this non-violent drama in John. We have seen that Philo in *Praem.* 95 applied military terms to the 'Man' as a military leader, who, "commanding his army and doing battle", would subdue great and populous nations, because God sent aid to the 'Man' and made him awe-inspiring and irresistible. Corresponding to the divine help to the 'Man', whose kingship was derived from God (cf. *Mos.* 1:149–150), God is the power behind John's depiction of Jesus' non-violent kingship. As we pointed out in the previous chapter, in the examination before Pilate, Jesus affirmed that his royal status and power came "from above", and was expressed in bearing witness to the truth, not in wielding the sword (18:33–37).

John regards the effects of the exaltation of Jesus on the cross in a way similar to the characterization of the victory of the 'Man' over many nations in Num 24:7 LXX and Philo's reception of this scripture. John uses the same terminology as in Num 24:7 LXX; the verb *ὑψώω* is ambiguous and refers in John both to his "lifting up" and to his "exaltation" on the cross (3:14; 8:28; 12:32, 34).⁹⁷ More

95 Lindars 1972, 514.

96 For a recent discussion of a 'realized eschatology' in the Fourth Gospel, cf. von Wahlde 2013, 149–162.

97 Mardaga 2012, 107–117.

importantly, this expression in John, as in Num 24:7 LXX, and almost parallel in Philo, *Mos.* 1:290 (πρὸς ὕψος ἀρθήσεται), is used in association with being exalted as king over the nations. Hence, John's portrayal of Jesus on the cross encompasses his exaltation and enthronement as "king of the Jews" over the nations. While, as I pointed out above, the τίτλος affixed to the cross implied that Jesus was proclaimed as the authentic "king of the Jews", the universal domain of his kingship is indicated by the three languages of the inscription. At that very moment of attaching the inscription to the cross, the 'profanation' of the imperial authority of Caesar was revealed, so that the inscription proclaimed a reversal of the mockery of Jesus as a pseudo-Emperor.⁹⁸ Taken together, these devices of a parody of Jesus as an imperial triumphator, which reaches its climax with Pilate's proclamation of Jesus as "*the Man*" and the penal inscription on the cross, were turned upside down and suggested to John an alternative divine level of meaning, that did not imply what Pilate and the 'Jews' intended it to mean: Jesus, the Nazorean, had defeated the "ruler of this world" and become the true 'Emperor' of all nations.⁹⁹ At this place, let us quote F. Moloney on John 19:5:

Throughout the Gospel the reader has been directed to look forward; in 13:31 he has been told: "Now is the Son of man glorified" and finally, in the ironic coronation and investiture of Jesus, it is Pilate who announces: "Here he is—the Son of man!"¹⁰⁰

I concur with Moloney that the title 'Son of Man' is implied in the designation "the Man", but in the trial narrative of John, this designation "the Man" serves as an additional explanation of the Christological declaration "Son of the Man" rather than the other way round, as Moloney suggests. The two declarations "Son of Man" and "the Man" correlate to each other as identifications of an

98 "Profanation" is J.C. Scott's term for intentional parodies and reversals of the values of a great tradition, cf. Scott 1977, 1–38. Cf. Thatcher (2009, 135–139) for the application of this term to the way John presents Jesus as an instance of the profanation of Caesar's authority.

99 John's description of Jesus as the "saviour of the world" (4:42) might have some relevance in this regard as well. "Saviour" (σωτήρ) can be applied to a victor in war, who by a military action has saved the town and the people from danger, and is brought into the city in a specific entry. The people go to meet him, and receive him to the accompaniment of acclamations; wreaths are presented, songs of good wishes are sung. For evidence, cf. Versnel 385–386. Cf. also John 12:12–15 as a possible parallel.

100 Moloney 1978, 207.

expected 'messianic' or eschatological figure.¹⁰¹ In accordance with such a line of thought, W. Horbury has suggested that "the background against which 'the son of Man' should be considered would accordingly be not Dan. 7 alone, but [...] the messianic interpretation of the law and the prophets, into which Dan. 7 also had been drawn."¹⁰² Horbury bases this assumption on the evidence from both Josephus and John. Josephus seems to indicate that the prophecy of Daniel is to be fulfilled, in the same way as he mentions the consummation of Bileam's oracles (*Ant.* 4:303, 320). It is noteworthy that M. Hengel in this case suggested that Num 24:7 was plausibly one of the oracles Josephus had in mind.¹⁰³ If this is the case, John, like Josephus, may reflect the same kind of association of the "Son of Man" and the 'messianic' hopes in the Law of Moses. In John 1:45, Philip announced to Nathanael: "We have found him about whom Moses in the law and also the prophets wrote, Jesus son of Joseph of Nazareth". The next day, Jesus manifests his supernatural knowledge to Nathanel, which leads to his confession about Jesus as the Son of God and the King of Israel (cf. John 1:49). Jesus replies to Nathanel's confession with a Son of Man logion: "Very truly, I tell you, you will see heaven opened and the angels of God ascending and descending upon the Son of Man" (1:51). Similarly, the eschatological figure of a Son of Man is used alongside the Messiah in John 12:34, and if this is taken at face value, it is suggested, as in John 1:41, that this eschatological idea is anchored in both the prophets and the law: "We have heard from the Law that the Messiah remains forever. How can you say that the Son of Man must be lifted up? Who is this Son of Man?" If the 'Son of Man' in 12:34 refers to Daniel 7 as the source behind this title, it is not implausible that Num 24:7 have been the Scripture from the Law in which the 'messianic' hopes about the 'Man' originated. Thus, the question that has been asked in earlier passages in the gospel about the referent of the term "Son of Man" (9:35–39; 12:34–36) may find its ultimate explanation in the terse designation "*the Man*" (19:5), about whom Moses in the law and also the prophets wrote.

The Passover festival is very prominent in John, as we see in the account of the trial before Pilate.¹⁰⁴ It is thus probably not by accident that John dates the precise moment of the execution to the hour when the Passover feast began. A common assumption interprets the note of Passover in 19:14 in correlation

101 van Belle (2013, 159–178, esp. pp. 169–170) holds that the Christological titles and declarations in John have more or less the same meaning and are essentially interchangeable.

102 Horbury 2003, 130.

103 Hengel 1989b., 655–656.

104 Cf. Millar (1990, 380–381) for the prominence of the Passover theme in John.

with John 1:29 as referring to Jesus' death as the Passover lamb at about the hour that the Passover lambs were slain.¹⁰⁵ However, other scholars have suggested that the paschal image refers more to Jewish time-keeping than to a sacrificial death on the part of Christ. For example, I. de La Potterie, followed by Meeks and Bond, takes the note in 19:14 to refer to the enthronement of Jesus as eschatological king and judge.¹⁰⁶ A fresh interpretation should be posed along the lines of the latter suggestion, viz. that the execution of Jesus takes place at the time when Jews hoped for a 'new Moses' and the re-enactment of God's actions of deliverance of his people and the victorious campaign against their enemies, under the leadership of their commander-in-chief and true 'Emperor', the 'Man', as we see in Philo's eschatological visions of the future. The perceptive Johannine readers would grasp that this eschatological drama is now beginning and is transcended, when Jesus is executed and exalted as "King of the Jews" in the context of this very feast. In this way, the kingship of Jesus is interpreted in a legal framework in an imperial Roman context, in which the roles of Pilate and Jesus are reversed: It is Jesus as the victorious king, and not the Roman governor Pilate, who is seated on the judgement seat (βῆμα) of the Roman Emperor.

6 Conclusions

1. In *Mos.* 1:290 and *Praem.* 95, Philo makes use of Num 24:7 LXX in contexts in which he envisages an eschatological conquest of the nations under the leadership of a 'Man' (ἄνθρωπος). In the context of a Mosaic typology, this 'Man' appears to be a 'new Moses', who will bring the universal charge of the Jewish nation to a full and complete realization, far beyond what Moses was able to realize in his lifetime. Thus, Moses' and the Hebrew army's victories during the exodus were seen as past events that pointed forward to the Hebrew people's

105 So e.g. Barrett 1978, 454; Bultmann 1971, 514 n. 5. Most recently, Marcus (2013, 303–324, esp. pp. 312–313 n. 39) has opposed such an argument: "[...] because (a) John does not explicitly say that Jesus died as the lambs were being slaughtered. (b) Awareness of the timing of the custom is unlikely in readers whose knowledge of Judaism is so deficient that they need to be told, for example, that Passover is 'a feast of the Jews' (John 6.4). (c) Other evidence seems to favor a midafternoon or later slaughter of the sacrificed animals, so the posited synchronicity does not work (see Exod 12.6; *Jub.* 49.12; Josephus, *Bell.* 6.423, Philo, *QE* 1.11; *m. Pes.* 5.1) [...]"

106 Cf. e.g. de La Potterie (1961, 109); Meeks (1967, 76 n. 3); Bond (1998, 192).

future conquest of many nations. I have argued in this chapter that such a Mosaic typology and eschatological hopes provide a cultural context for John's portrayal of Jesus as a rival king and world 'Emperor' over against the Roman Emperor, one who transforms and transcends the expected way in which such a 'messianic' figure would come to power.

2. In order to substantiate the thesis, I first examined the resonant intertextual signification represented by Num 24:7 LXX and the relevant Philonic texts. In fact, Num 24:7 LXX is the only passage in the Hebrew Bible in which ἄνθρωπος denotes a 'king' or a royal person who is said to have a βασιλεία in terms of a kingship and kingdom. The alteration of the Hebrew text in the Greek text of Num 24:7 led to the conclusion that it promoted a 'messianic' interpretation, in which the use of βασιλεία centered the attention on ἄνθρωπος as an eschatological and royal figure by mentioning his future achievements as a king and with a kingdom that will be enlarged. Philo's exegetical paraphrase of Num 24:7 LXX lends further support to this eschatological exposition. While the 'Man' in *Mos.* 1:289–291 is primarily perceived as an eschatological king, who, on the basis of the Mosaic model of a warrior king, is to rule over many nations, and whose kingdom shall increase every day and whose kingship shall be exalted, *Praem.* 95 sees him primarily as a commander-in-chief, who, if needed, will appear in the eschatological war, and bring the Hebrew people to prevail over its enemies. In both texts, Philo interprets the 'Man' with imperial features that evoke the image of an 'Emperor'. Moreover, *Mos.* 1:289–291 connected the 'Man' of the Balaam oracle with Gen 49:9–11, the lion-like people of Judah and the ruler to arise from them.

3. I have further argued in this chapter that the appropriation of Num 24:7 LXX by Philo may shed new light on Pilate's 'entitling' of Jesus as ὁ ἄνθρωπος in John 19:5 in its literary context. On the basis of the parallelism between the two scenes John 19:3–7 and 19:13–16 and the similarity in the dramatic structure of the texts to the Roman custom of *appellatio imperatoria*, I have claimed that Pilate's 'entitling' of Jesus by the designation ὁ ἄνθρωπος was meant as a presentation of Jesus as an 'Emperor'. The conceptual and terminological correspondences between the texts of Num 24:7 LXX and Philo coincide with this portrayal of Jesus as a king and world 'Emperor', who in John's view now has gained victory, but has transformed and transcended the expected way in which such a 'messianic' figure would come to power. Taken together, these devices of a parody of Jesus as an imperial triumphator, reaching its climax with Pilate's proclamation of Jesus as "the Man" and the subsequent inscription on the cross, were turned upside down and supplied John

with an alternative divine level on which Jesus, the Nazorean, was the true 'Emperor', who had defeated the "ruler of this world" and become the King of all nations.

4. I have put forward the fresh proposal that the perceptive Johannine readers would grasp that Jesus, by his execution as the "King of the Jews", was exalted as 'Emperor' and King when the feast of Passover that celebrated the exodus was about to begin, the very feast when the Jews looked to the re-enactment of God's actions of deliverance of his people and the victorious campaign against their enemies, under the leadership of their commander-in-chief and true 'Emperor', "*the Man*".

Excursus: Pilate in the Political Dilemma between the Jewish Law and Caesar

In John's account, Jewish opponents continually bring accusations against Jesus, and in chapter 11, the high priest summons a small body of councilors to help determine the charge against him. Once Jesus had been taken into police custody, all John needed to do was to refer the reader back to the political resolution reached in chapter 11—something he does quite clearly in 18:3. Accordingly, the high priest conducted a brief fact-finding investigation in the capacity of the Jewish police authority in Jerusalem, before passing Jesus over to the provincial jurisdiction of Rome. Apparently, in view of the approaching Passover, Pilate viewed Jesus as a potential trouble-maker, with dangerous royal aspirations, and thus crucified him under the title "King of the Jews". In this way, John presents the execution of Jesus as the result of a political decision, reflecting, perhaps, the fact that Pilate yielded to pressure from the Jewish leaders to avoid being discredited by the Roman Emperor. Accordingly, F. Millar has proposed that Philo's work *In Flaccum* provides a contemporary analogy of such a pressure exerted on a Roman governor, who feels himself to be out of favour with the Emperor. According to Philo's account, Flaccus yielded to the pressures from the Egyptian mob and was responsible for the legal attack on the Jewish population of Alexandria, which implied that their rights to live in accordance with their own laws and customs were annulled. Philo's highly apologetic account of Pilate in the letter of King Agrippa I to the Emperor Gaius in *Legat.* 299–305 is, perhaps, even more appropriate as a point of comparison with the picture of the Roman prefect in John. Johannine scholarship has not made sufficiently use of the Philonic text as a referential background for John's portrayal of Pilate and

the political dilemma involved in his negotiations with the Jews.¹⁰⁷ Let me offer some brief remarks here.

The historical background for Philo's analysis is that Agrippa tried to prevent Gaius from setting up a statue of himself in the temple of Jerusalem by drawing a contrast between the Emperor and Pilate. Thus, through the lens of the portrait of Pilate, Agrippa urged Gaius to respect Jerusalem in the same way as Tiberius had. The text runs as follows:

Pilate was an official who had been appointed procurator of Judea. With the intention of annoying the Jews rather than honouring Tiberius, he set up gilded shields in Herod's palace in the Holy city. They bore no figure and nothing else that was forbidden, but only the briefest possible inscription, which stated two things, the name of the dedicator and that of the person in whose honour the dedication was made. But when the Jews at large learnt of his action, which was indeed already widely known, they chose as their spokesman the king's four sons, who enjoyed prestige and rank equal to that of kings, his other descendants, and their own officials, and besought Pilate to undo his innovation in the shape of the shields, and not to violate their native customs, which had hitherto been invariably preserved inviolate by kings and emperors alike. When Pilate, who was a man of inflexible, stubborn, and cruel disposition, obstinately refused, they shouted, "Do not cause a revolt! Do not cause a war! Do not break the peace! Disrespect done to our ancient Laws brings no honour to the Emperor. Do not make Tiberius an excuse for insulting our nation. He does not want any of our traditions done away with. If you say that he does, show us some decree or letter or something of the sort, so that we may cease troubling you and appeal to our master by means of an embassy." This last remark exasperated Pilate most of all, for he was afraid that if they really sent an embassy, they would bring accusations against the rest of his administration as well, specifying in detail his venality, his violence, his thefts, his assaults, his abusive behavior, his frequent executions of untried prisoners, and his endless ferocity. So, as he was a spiteful and angry person, he was in a serious dilemma; for he had neither the

¹⁰⁷ Bond's study (1998) is the standard work on the analysis of Pilate in both Philo and John. However, it is a weak point in an otherwise excellent investigation that she fails to draw on Philo's portrait of Pilate in a comparison with John. Brown (1994, 2.844) claims that John's portrait fits one part of Philo's description in *Legat.* 301–302, i.e., how Pilate "was naturally inflexible and stubbornly resisted when the Jews clamored against him for violating their customs".

courage to remove what he had once set up, nor the desire to do anything which would please his subjects, but at the same time he was well aware of Tiberius' firmness on these matters. When the Jewish officials saw this, and realized that Pilate was regretting what he had done, although he did not wish to show it, they wrote a letter to Tiberius, pleading their case as forcibly as they could. What words, what threats Tiberius uttered against Pilate when he read it! It would be superfluous to describe his anger, although he was not easily moved to anger, since his reaction speaks for itself. For immediately, without even waiting until the next day, he wrote to Pilate, reproaching and rebuking him a thousand times for his new-fangled audacity and telling him to remove the shields at once and have them taken from the capital to the coastal city of Caesarea (the city named Sebaste after your great-grandfather), to be dedicated in the temple of Augustus. This was duly done. In this way both the honour of the Emperor and the traditional policy regarding Jerusalem were alike preserved.¹⁰⁸

Legat. 299–305

According to this narrative, Pilate had set up some golden shields with an inscription on them in Jerusalem.¹⁰⁹ This was most probably an honorific inscription of the type that, besides the name of the person honoured, would include his offices and triumphs.¹¹⁰ Thus, Pilate appears as a prefect who wants to show his loyalty to the Emperor. The fact that the shields did not contain a portrait of the Emperor and were placed inside the *praetorium* indicated that Pilate did not intend to arouse Jewish objections. Philo is certainly correct when he says that this shield incident confronted Pilate with a dilemma: On the one hand, the Jews were afraid that Pilate could cause a revolt and destroy the peace in Jerusalem. On the other hand, Pilate was afraid and realized that the emperor would be furious and that the Jews would convict him for the way he practiced his governorship, if they sent a Jewish embassy to the Emperor. The disquiet grew among the Jews in Jerusalem, since the shields most probably contained Tiberius' full name, including his designation as "son of the deified Augustus". Accordingly, the Jewish leaders chose four of Herod's sons as their spokesmen, who then appealed to Pilate to remove the offensive shields. When he refused,

108 Translation by Smallwood 1961, 128–130.

109 It is a common view among scholars that the incident of the shields seems to have taken place shortly after the death of Sejanus, i.e. 17 October 31 CE; cf. Smallwood 1961, 305; Bond 1998, 45–46; Messner 2008, 48–49.

110 For an analysis of this text in the light of Philo's theological outlook and of its political background, cf. Bond 1998, 24–48.

the Jewish magistrates were provoked to write the Emperor Tiberius letters of petition. The outcome was that Tiberius reproached and rebuked Pilate and ordered him to take down the shields and to transfer them to Caesarea by the sea.

Whether Philo's account on Pilate is historically reliable or not, it can help to shed light on the judicial and religio-political circumstances which brought Jesus to crucifixion.

First, in John's view, it seemed that the pressure exerted on Pilate from the Jews was inextricably merged with their laws and customs. In a way similar to Philo's account, on the basis of a *modus vivendi* worked out between the Jews and the Romans and of the turbulence around the large following of Jesus, John reasons that the Jews were afraid that the Romans would ruin the peace and destroy their holy place in Jerusalem and the Jewish people. Such a fear on the part of the Jews is expressed by Caiaphas according to John 11:45–57. Hence, it is a common view in Johannine scholarship that the Roman prefect crucified Jesus to provide crowd-control, and prevent a Jewish uprising and revolt, and subsequent Roman retribution.

Second, in the face of the plausible circumstance that due to the approaching Passover, the Jews were not allowed to execute Jesus themselves (18:31), and the fact that the Roman governor would release Jesus, the pressure on Pilate mounted to a religious charge based on the Law: "We have a law, and by that law he deserves to die, because he has made himself the Son of God" (19:7). In the light of the fact that Tiberius rebuked Pilate for not respecting the ancestral customs of the Jews and the city of Jerusalem, it is reasonable that the introduction of the charge based on the Law had the effect reported in John 19:8, that Pilate became "more afraid".

Third, the religio-political pressure on Pilate on the part of the Jews was intensified and emphasized when they claimed that he would be opposing the Emperor if he refused to crucify an alleged king: "If you release this man, you are not a friend of Caesar, for anyone who makes himself a king opposes Caesar" (19:12). Moreover, the rejection of Jesus by the Jews reached its climax in their expression of loyalty to the Roman Emperor: "We have no king but Caesar" (19:15). Bearing in mind Philo's account of how the Jews tried to convict Pilate before the Emperor for his assaults on the Jewish people, it corresponds well with the political situation that Pilate gave in to Jewish pressure and handed over Jesus to crucifixion.

In summary, these aspects of the Jewish pressure exerted on Pilate seem to have verisimilitude, and become more comprehensible in the context of Philo's description of Pilate vis-à-vis the Jews and the Roman Emperor in *Legat.* 299–305.

Final Summary

The lawsuit motif in John has been examined from various angles of historical, literary, and theological issues that have been discussed in recent Johannine scholarship. The aim of the present study has been to shed fresh light on some of these aspects from the background of Diaspora-Jewish and Greco-Roman data, which either have not been appropriated or should be brought more centrally into the discussion of Johannine scholars. Let me now bring together and briefly summarize the main conclusions reached in each part of this study.

In *part one*, I study some distinct features of the Jewish and Roman legal proceedings against Jesus in John. An underlying concern that bears on the composition of John is the tension and interaction between the Jewish and Roman jurisdictions. Thus, in *chapter two*, I argue that the episodes in which the Jews are ready to take steps to kill Jesus might amount to the reactions of *either* an informal vigilante execution on the spot, *or*, when the circumstance called for it, an official procedure, in which a criminal is legally arrested, tried, and, if found guilty, executed. The alternative reactions to non-conformity to the Law have an analogy in John's cultural context, provided by the proceedings attested in Philo, *Mos.* 2:214–218.

The attempts to stone Jesus should be seen as illustrations of vigilante execution on the spot, which the Jews regarded as an extra-legal measure appropriate in situations where a more regular proceeding was prohibited and thus impossible. We can imagine such a procedure of vigilante prosecution when the Jewish Law was in conflict with the Roman jurisdiction, or when the Romans exercised a negligent tolerance of local practice, so long as it would not disturb and endanger the order of the Roman government. The attempts on Jesus' life for such crimes as breaking the Sabbath, blasphemy, and seduction have some verisimilitude in the cultural context provided by Philo's writings on vigilante execution (*Mos.* 2:214–218; *Spec.* 1:54–57; *Spec.* 1:315–318).

The so-called 'trial' of Jesus before the high priest and Pilate may be conceived as a modern construct. In reality, the legal interaction and negotiation recounted in John between the Jewish authorities and the Roman governor can be explained against the background of the juridical fact that the subjects of a Roman province, and *a fortiori* the Jewish 'Sanhedrin' itself, could hand over any case to the Roman jurisdiction. Specifically, in a legal case with political implications, such as when a seditious person endangered the order of both the Jewish nation and the Roman government, the individual was supposed to be handed over to the Romans, who would decide whether a death sentence was to be passed and carried out. In *chapter three*, I maintain that the political

'conspiracy' against Jesus on the part of the Jewish authorities in John is worked out through the legal machinery of the Greco-Roman procedure. Hence, the Johannine report of the juridical facts of the official Jewish and Roman forensic proceedings against Jesus can be situated within the framework of the Greco-Roman administration. More specifically, I have argued that the legal proceedings in John reflect the provincial procedures as they are exemplified in the legal protocol *P.Oslo* II 17 and other papyri from Roman Egypt.

In *part two*, I deal with aspects of the lawsuit motif in John from the perspective of the divine realm and jurisdiction. My point of departure is the view that the Gospel of John displays a two-level drama, viz. the earthly drama of the story of Jesus on the level of appearance, and the cosmological drama on the divine level of reality. The intersecting of these two dramas becomes apparent in Jesus' conflicts with his interlocutors. Thus, chapters four and five analyse the forensic and theological movements between the earthly and heavenly levels in the Johannine stories about Jesus' conflicts with his Jewish interlocutors. Within the structure of the Fourth Gospel, the forensic and human and divine aspects involved in such debates can be explained and used to support the gospel proclamation about Jesus. In *chapter four*, I establish a Jewish cultural context for the debate about valid testimony that is reflected in John 5:31–40 and 8:12–20. Philonic data (*Leg.* 3:205–208), neglected among the interpreters of John, provide documentation for the view that the controversy on self-testimony in John 5:31–40 and 8:12–20 is a specifically 'Christian' version of a discussion which most probably also existed among Diaspora-Jews in Alexandria. Philo gives us a glimpse of the Jewish discussion of the prohibition of single testimony, and the problem that arises when it is applied to God. In a controversy with Jewish interlocutors, Philo maintains that only God was capable of giving a self-authenticating testimony, without coming into conflict with the ruling about two or three witnesses. This argument supplies a Jewish context for the point made by John that Jesus could testify to himself because of his divine origin. Accordingly, both God and Jesus could give valid testimonies in compliance with the legal demand of at least two witnesses to substantiate the claims made by Jesus in his own defence.

On the earthly level of the human being, John also seems to presuppose the Jewish idea that a divine testimony might be provided by the Law and by the external exposition of the Scriptures. Thus, in John 5:38–39 the idea may be that God gave witness to Jesus in the sense that He gave the Law of Moses as an internal testimony implanted in human hearts. As I point out, once again Philo provides an analogy to the conception of the Law, viz. the 'Logos', accredited to human beings as a testimony, and to the idea that the "Scriptures" bear witness to the Jews. For John, the learned study of the 'Jews' and the testimony of the

Law are in vain, since they refuse to believe in Jesus. Such observations amount to the conclusion that both Philo and John distinguish between testimonies on the divine level and testimonies accredited on a human level.

In *chapter five*, I analyse John 5:1–18 and 10:31–39 from the levels of both an earthly and a divine jurisdiction. On the one hand, from the position of Jesus' adversaries, the charge against Jesus of blasphemy was legally appropriate and qualified for the death penalty according to the Law of Moses. On the other hand, on the level of the divine realm and jurisdiction, a 'divine Halakha' might apply to the case of Jesus as legal precedence. Hence, the accusations made against Jesus on the basis of the jurisdiction of an 'earthly Halakha' can be given a contrasted meaning when seen from the perspective of a divine judicial authority and in the framework of a 'divine Halakha'. Since Jesus as a human being was regarded by John as the heavenly agent of God, he could perform the divine activities on the Sabbath and claim the status of being the Son of God, without being charged with such infractions as breaking the Sabbath and blasphemy.

In the first part of the chapter, I discussed John's use of a widespread Jewish exegetical tradition based on Gen 2:2–3 about God's continuous work on the Sabbath in relation to Jesus' divine work and providence on the Sabbath in John 5:1–18. The charges against Jesus as violating the Sabbath regulations and blasphemy were turned upside down: Jesus' healing of the infirm man in Jerusalem on the Sabbath made it manifest that he was the Son of God, who shared in his Father's divine prerogative to work on the Sabbath, and thus showed himself to be "equal to God" (5:18). Inherent in the Jewish exposition of Gen 2:2–3 LXX (Aristobulus, *Letter of Aristeas*, Philo) was the view that the creation was not yet completed, and that God therefore had still work to finish at the Sabbath. In a corresponding way, the emphasis on God's continuous creation "until now" in John 5:17, including the Sabbath, implied that the creation was not complete. Against this background, Jesus' offer to the infirm man to make him whole (ὑγιής) can be interpreted within the framework of idea of the completion of God's work on the Sabbath. Another distinct feature of the Jewish exposition of Gen 2:2–3 was the ambiguous meaning ascribed to the Sabbath, i.e. that it both marked an end to something and made manifest a new start. Correspondingly, John 5:14b may echo the ambiguous ethical meaning of the Sabbath: whenever the providential activity of God creates an opportunity for a new start in a man's life, the past with all its mortal and moral aspects comes to a definite end. In that case, the admonition not to sin corresponded to Jesus' command of healing, which signified that the past sins integral to the illness of the infirm man had also come to a definitive end.

In the remaining part of the chapter, I argued that the legal precedent provided by the use of Ps 82:6 in John 10:35 can be explained in the light of a Jewish idea about the Logos as the heavenly agent of God, attested by Philo, which corresponds to the many references to Jesus as the divine agent of God in John 10:22–39. The *tertium comparationis* in John's scriptural argument *a fortiori* was that Jesus as “*Son of God*” stood in an incomparably closer relationship to God than those addressed in the Ps 82:6 as “gods”, because of the contrast which could be made between **those to whom** the divine agent of the Logos came and **the one as whom** the heavenly consecrated agent of God was sent to the world. This interpretation of John 10:35 finds support from the way John elaborates in the immediate context on the concept of agency, drawing upon the halakhic principle that an agent is identical with his sender, not only in function, but also in his qualities. In John 10:30–38, this halakhic principle of agency was applied to a divine level about Jesus who came from the divine realm sent into the world. According to John, the binding divine precedent of the Scripture had relevance and should be used to resolve the judicial controversy centering on the question of whether Jesus as a human being made himself “God”: If the appellation “gods” was mediated to Israel at Mount Sinai when they received *the Logos of God* (Ps 82:6), then how much more was “Son of God” a permissible epithet for Jesus, who himself was “sanctified and sent into the world” as the agent of the (heavenly) Father as a human being. If this was the case, the Jews’ charge of blasphemy was invalid and must be refuted.

In *part three*, I examined the divine reversal of the lawsuit motif when the motif of Jesus as King is turned upside down to become the main essence of the gospel. In *chapter six*, I suggested that Philo's *De Iosepho* provides a relevant Jewish analogy to John's way of dramatizing the lawsuit of Jesus, and can offer insight into the cultural foils and horizon of expectations behind the Johannine text, consisting of common elements from political biography, Hellenistic kingship ideology, and judicial motifs. Thus, both authors dramatize a ‘conspiracy’ to kill the idealized protagonist as a creative theodicy, which in the light of God's predetermined plan brings about their elevation to kingship. Joseph went from being plotted against by his brothers to being exalted as a true king of Egypt. In a corresponding way, the plot against Jesus led to his exaltation as the true king. Drawing on elements from the literary genre of political *bios* and the ideology of Hellenistic kingship, the two authors describe Joseph and Jesus as the ideal true king: the king embodied the ‘Logos’ of God, was an ‘averted of evil’, and was concerned for his people like the shepherd, who provided nourishment for his people, or like the physician, who cared for his patients.

The motif of a legal reversal in both Philo and John plays on precisely the same terms. The antagonists, who on the human level appear to ‘plot’, are themselves being investigated and judged by their protagonists, who on a divine level are conceived as representing ‘God’, the ‘Logos’, and the ‘Divine Law’. Hence, in both accounts, the protagonists are recognized as the instrument through whom ‘God’, the ‘Logos’ or ‘Divine Law’ operated. They were not only the victims of a human ‘plot’. They were agents of the divinity.

In *chapter seven*, I examined the issue of kingship ascribed to Jesus in the ‘trial’ before Pilate from the perspective of a Christological rewriting of Jewish eschatological hopes in negotiation with the Roman Empire. An analysis of the wider contexts of *Mos.* 1:289–291 and *Praem.* 95, in which Philo gives an exegetical paraphrase of Num 24:7 LXX, lends support to the idea that Philo envisaged an eschatological re-enactment of the Exodus under the leadership of a ‘Man’ (ἄνθρωπος). While the ‘Man’ in *Mos.* 1:289–291 was primarily perceived as an eschatological king, who, on the basis of the Mosaic model of a warrior king, was to rule over many nations, and whose kingdom was to increase every day, he is primarily seen in *Praem.* 95 as a commander-in-chief, who, if needed, shall appear in the eschatological war, and bring the Hebrew people to prevail over its enemies. In both texts, Philo portrays the ‘Man’ with imperial features that recall the imagery of an ‘Imperator’ and ‘Emperor’. Moreover, in *Mos.* 1:289–291 Philo connected the ‘Man’ of the Balaam oracle with Gen 49:9–11, the lion-like people of Judah and the ruler to arise from them.

Against this background, the fresh proposal was made that in John’s view, Jewish future hopes were brought to fulfillment when Jesus was exalted as “King of the Jews” at the time of the Passover. Some observations on the ‘trial’ scenes before Pilate in its imperial Roman context offered corroboration of this suggestion. The Johannine account of the clothing, the crowning, and the acclamation of Jesus by the Roman soldiers as “King of the Jews”, leading up to Pilate’s honorific ‘entitling’ of Jesus as ὁ ἄνθρωπος and ὁ βασιλεύς, and the ensuing response of the ‘Jews’, are all elements that might be conceived as mimicking and reinscribing features of the Roman custom of *appellatio imperatoria*. As the implied reader of John already knows, the subversion of the parody is the true version. Taken together, these devices of a parody of Jesus as an imperial triumphator, reached its climax with Pilate’s proclamation of Jesus as “the Man”, and the inscription on the cross. These were turned upside down and supplied John with a subversive meaning, viz. that Jesus was the victorious king, who had defeated the “ruler of this world”, and now had become the true ‘Emperor’ of all the nations. In this way, the kingship of Jesus was reinterpreted in the legal setting of the Roman Empire, in which the roles of Pilate and Jesus

were also reversed: It is Jesus, as the victorious king and judge, and not the Roman governor, who is now seated on the judgement seat (βῆμα) of the world empire.

In an excursus appended to chapter seven, I suggested that Philo of Alexandria provides a contemporary view of Pilate, which means that the case of Jesus can be conceived in the framework of the 'political' negotiations between the Jewish people and the Roman empire, represented by the Roman governor. This means that the execution of Jesus could be explained as the outcome of political pressure exerted on Pilate both by the Jewish people, which supported the Emperor as the guarantor of its local semi-autonomy and right to observe the Law, and by the Roman empire, since Pilate himself struggled to remain in favor with the Emperor.

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